



May 2, 2008

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: Corrected Comments, MB Docket No 04-233

Dear Ms. Dortch:

On April 28, 2008 the educational non-profit Common Frequency timely submitted a Comment with respect to MB Docket 04-233. Upon review after the submitting we noticed several typographical errors in the document. Attached are the corrected Comments of Common Frequency. We sincerely request that the corrected version of this document supersede the original timely filed Comment.

This signed letter also serves to state that the content—footnotes, dates, data, figures, charts, etc—are all unchanged from the original Comment except for grammar and spelling corrections. In addition, “filed behalf” was changed to “filed by” on the first page to reflect the actual representation of the Comment, and on page 39, reference to “Appendix 2” was changed to “Appendix B” since the Appendices are lettered, not numbered. To the extent that the Commission may determine that its leave to file is required for these Comments, it is respectfully requested, and in such case, we submit that grant of such leave is warranted. If there are any questions concerning this document, feel free to contact me directly.

Respectfully Submitted,

Jeff Shaw  
President, Common Frequency  
jeff@commonfrequency.org

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

<b>In the Matter of Application of</b>	)	
	)	
<b>Broadcast Localism</b>	)	<b>MB Docket No. 04-233</b>
	)	
	)	

**COMMENTS OF COMMON FREQUENCY**

April 28, 2008

**COMMON FREQUENCY, INC**

PO Box 4301  
Davis, California, 95617

Filed by  
Todd Urick

## **Overview**

Common Frequency is a 501(c)(3) non-profit corporation founded to promote public participation in broadcasting. We believe that since much of the public does not know the procedures regarding radio station licensing, petitioning, and commenting to the Commission, they cannot fully take advantage of broadcast opportunities. Our interest lies in promoting community, student, public, LPFM and other locally oriented educational broadcasting services.

Within the past few years the FCC has received written comments and input at local hearings in which the public has expressed disappointment in how broadcasters serve the local public interest. The FCC has asked for input on specific policies that could be implemented to accomplish this goal. Many broadcasters maintain that the current rules adequately fulfill localism objectives and no further regulation is required. While some broadcasters do fulfill serving their communities of license, others do not. With this latest Report and Notice of Proposed Rulemaking MB Docket No 04-233 (the “Report”), the Commission has mentioned several methods ensuring localism.

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## **Introduction**

Title III Section 307(b) of the Communications Act requires the FCC to make laws for broadcasters regarding equal service in all areas; current rules do not sufficiently enforce this statute. New regulation would impose minimum standards to evaluate how well a broadcast outlet serves the public. Currently there is no benchmark, so if a station blatantly disregards serving the public interest, citizens have no recourse to demand or guarantee better utilization of their airwaves. Ideally, new regulations should be implemented that raise the quality of the broadcasters who are not serving the local public interest, and not penalize the ones who are.

It is the concern of broadcasters that new regulation would command additional money for implementation of those regulations. If a broadcaster is not currently participating with localism measures, this may be true. If a broadcaster is producing local programming, meeting with members of the public, maintaining communication with the community, etc., the additional costs of documenting these measures would be minimal.

Let us remember, the airwaves belong to the public and were licensed to individual groups to, in the case of commercial radio, derive profit. Using a public resource typically means having the government provide minimal standards for use; this is seen in several areas of government regulation. In a factory, market forces do not translate easily to environmental, so environmental regulations exist. In the food and drug industry, market forces do not always consider public health, thus we have food labeling, FDA,

USDA, and ever-evolving controls on ingested items. Market forces also cannot always serve the public interest in broadcast localism standards.

Some commercial broadcasters depend on the “staying competitive” argument—meaning that concentrating resources on local programming and FCC paperwork makes an organization less competitive. The “uncompetitive” argument has not been proven. If a commercial broadcaster cannot maintain minimum standards in serving the public, that broadcaster could sell the station. Surely another group will implement these standards and successfully operate the station. Yet station owners that currently monopolize a public resource expect the FCC to not just secure profitability, but *maximum profitability*. If some broadcasters claim it is unprofitable to adequately serve with adequate localism standards how can they explain the percentage of broadcasters successfully implementing it now and succeeding? Secondly, radio broadcasting has become significantly cheaper to implement. In the old days terrestrial audio repeater links, production rooms with reel-to-reels, media players (cart machines, turntables, cassette players), and specialized mechanical equipment were needed for broadcast quality operations. Today these analog technologies have been replaced by a standard Windows-based personal computer with broadband access. The price of production has plummeted, resulting in additional profits.

## **I. Noncommercial Localism**

Some non-commercial, educational (NCE) broadcasters may claim there is encroachment of free speech if localism standards are required. We should note that NCE licenses, unlike commercial licenses, are handed to non-profits for free, with no yearly use fee.

Educational licenses are handed out “first come first served”, and not by best usage as deemed by the local educational community. Thus, licenses are granted to entities that have money, means, or knowledge of obtaining a license. Broadcasting is unlike other free speech mediums—such as press and Internet—because anyone is free to start a newspaper or website at anytime to express their views. This system of determination of who obtains rights to free speech over the public airwaves is inequitable unless the FCC stipulates that broadcasters must serve diverse aspects of the public interest by allowing local views expressed on the airwaves, and the public to feasibly challenge a broadcaster’s license at a renewal date if they are not serving the public interest.

It is the FCC’s mission to maintain equal service to all localities, yet by observation we know all communities have varying ratios of local and non-local NCE programming. According to the FCC and Supreme Court’s interpretation of Section 307(b), fair distribution of service should be additionally applied to localism<sup>1</sup>. For example, hypothetically speaking, non-local entity *Star Trek Educational Media* (“STEM”) owns two studio-waived NCE licenses in Town A and promotes Star Trek education. In Town B there are two volunteer community radio stations that broadcast local weather advisories, cover local elections, generate local news, and play local artists. If these were the only two local NCE services available in each of these two towns, we would not call these services equal under 307(b). It is arguable that STEM is serving the local public interest, and the FCC is required to oversee that localism in these cases is fairly addressed. Currently there are few FCC regulations to govern this fairness of service. Therefore, the Commission should enact new rules to enforce localism in non-

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<sup>1</sup> As reaffirmed in “Report” FCC 07-218 Para 5



commercial educational broadcasting. Tighter controls on main studio waivers, and regulations regarding local and non-local originated programming is a logical place to examine.

### **NCE & LPFM Programming Examination: Local vs. Non-local**

We looked at non-commercial, educational programming available in eight different western radio markets of varying sizes. We chiefly wanted to view *community NCE* against *non-local full-power NCE*, and *translator* against *LPFM* to see if localism is currently being addressed within non-commercial radio sources. The overall goal of the study is to view how the Commission's current licensing policies affect non-commercial localism. Specifically, we examined:

1. The availability of "local non-commercial community and student radio" sources vs. "non-local non-commercial educational (NCE)" (translator and studio-waived) sources.
2. The comparison of translators vs. LPFM in each market.

We sampled eight different western US markets of differing sizes to obtain a sampling of what services are available in each market.

### Western Metros – Sampled Markets

<b>Metro</b>	<b>Mkt Rank</b>	<b>Mkt. Sampling Tier</b>	<b>Population Tier</b>
LA/Inland Empire, CA	2	1 – 10	~ 4 – 15 Million
Phoenix, AZ	15	10 – 20	~ 2 – 4 M
Portland, OR	23	20 – 50	~ 1 – 2 M
Bakersfield, CA	77	50 – 100	~ 450K – 1 M
Reno, NV	124	100 – 150	~ 300 – 450K
Wenatchee, WA	175	150 – 200	~ 200 – 300K
Redding, CA	228	200 – 250	~ 100 – 200K
San Angelo, TX	290	250 – 302	< 100K

*Reporting from smallest to largest:*

#### **San Angelo, TX – Market 290**

San Angelo is a small market with no local main studio reserved band service (88.1-91.9FM). While EMF, from California, enjoys three full power stations, the local only originated non-commercial service is relegated to a 42 watt LPFM.

#### **San Angelo, TX – Total Non-Local NCE- relayed Programming**

EMF (Rocklin, CA)	KLRW, KNAR, KTLP
Univ of Texas (Austin, TX)	KUTX
Christian Broadcasting Company (Abilene)	K215BH
American Family Association (Tupelo, MI)	KMEO

#### **San Angelo, TX – Locally Programmed Student/Community/Public NCE Stations**

None

#### **San Angelo, TX – Student/Community Programmed LPFM Stations**

Concho Christmas Celebration	KCSA-LP
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#### **Market Tally**

NCE Programming via Translator	2
Total Translator	3
Translator MX/Pending FX	0
Current Licensed LPFM within 30 km	2
Current LPFM Availability	0

<b>Full Power NCE</b>	<b>5</b>
<b>Total Nonlocal</b>	<b>5</b>
<b>Total Local Main Studio</b>	<b>0</b>

### **Redding, CA – Market 228**

Redding is a small market with population 158,500. Although the NCE band is at or near peak capacity, no NCE with a local studio currently has a licensed 1 mv/m contour that covers at least 50% the city. In fact, although Redding is 100 miles from the nearest state border, the current per-transmitter NCE tally shows that the majority of the programming in the vicinity from 88.1 - 91.9FM originates from *outside* the state of California (Figure 1).

Local/ NonLoc	Program Origination	Freq	Chan	Call	COL	Format	Owner
NL	ASHLAND OR	88.1	201C2	KNSQ	MOUNT SHASTA CA	NPR	OREGON ST BOARD OF HIGHER ED...
NL	TWIN FALLS ID	88.5	203D	K203CU	BURNEY CA	RELIGIOUS	CALVARY CHAPEL OF TWIN FALLS, INC.
NL	CHICO CA	88.9	205C1	KFPR	REDDING CA	NPR	CALIF STATE UNIV AT CHICO
NL	MCALLEN TX	89.3	207D	K207CM	RED BLUFF CA	RELIGIOUS	PAULINO BERNAL EVANGELISM
NL	TWIN FALLS ID	89.3	207D	K207CE	COTTONWOOD CA	RELIGIOUS	CALVARY CHAPEL OF TWIN FALLS, INC.
NL	TWIN FALLS ID	89.3	207D	K207CT	LAKEHEAD CA	RELIGIOUS	CALVARY CHAPEL OF TWIN FALLS, INC.
NL	CHICO CA	89.5	208D	K208BJ	WEAVERVILLE, ETC. CA	NPR	WEAVERVILLE TRANSLATOR CO., INC.
NL	ASHLAND OR	89.7	209C2	KNCA	BURNEY CA	NPR	OREGON ST BOARD OF HIGHER ED...
NL	(ROCKLIN CA)	90.1	211D	K211CO	REDDING CA	RELIGIOUS	EDUCATIONAL MEDIA FOUNDATION
NL	TWIN FALLS ID	90.3	212D	K212DF	BEND CA	RELIGIOUS	CALVARY CHAPEL OF TWIN FALLS, INC.
L	BURNEY CA	90.5	213C2	KIBC	BURNEY CA	RELIGIOUS	BURNEY EDUCATIONAL BROADCASTING...
L*	RED BLUFF CA	90.7	214A	KTHM	RED BLUFF CA	*	TEHAMA COUNTY COMMUNITY BROAD...
NL	ASHLAND OR	90.9	215D	K215BP	CENTRAL VALLEY, ETC. CA	NPR	OREGON ST BOARD OF HIGHER ED...
NL	ASHLAND OR	90.9	215D	K215BI	BURNEY CA	NPR	OREGON ST BOARD OF HIGHER ED...
NL	ASHLAND OR	91.3	217D	K217AS	BIG BEND & BUSH BAR CA	NPR	OREGON ST BOARD OF HIGHER ED...
NL	(ROCKLIN CA)	91.5	218A	KKRO	REDDING CA	RELIGIOUS	EDUCATIONAL MEDIA FOUNDATION
NL	CHICO CA	91.9	220D	K220EB	BURNEY CA	NPR	THE UNIVERSITY FOUNDATION
NL	CHICO CA	91.9	220D	K220EC	DUNSMUIR, MCCLOUD, CA	NPR	THE UNIVERSITY FOUNDATION
NL	TWIN FALLS ID	91.9	220D	K220IR	WEAVERVILLE CA	RELIGIOUS	CALVARY CHAPEL OF TWIN FALLS, INC.

\* Not on-air yet

**Figure 1: NCE FM Snapshot: Redding, CA area radio market. *NL = Nonlocal program origination, L = Local program origination.***

**Redding, CA – Total Non-Local NCE- relayed Programming<sup>2</sup>**

Calvary Chapel (Twin Falls, ID)	K225AJ, K262AM, K298AF, K203CU, K207CE, K207CT, K212DF, K220IR
EMF (Rocklin, CA)	KKRO, KKLC, KLVB, K211CO, K232DQ, K254AJ, K270AA
Oregon St Board. (Ashland, OR)	KNSQ, KNCA, K215BP, K215BI, K217AS
Family Stations (Sacramento, CA)	K268AJ
CSU Chico (Chico, CA)	KFPR, K220EB, K220EC, K259AW, K208BJ
Paulino Bernal Evangel (McAllenTX)	K207CM

**Redding, CA – Locally Programmed Student/Community/Public NCE Stations**

None

**Redding, CA – Student/Community Programmed LPFM Stations**

Red Bluff Joint Union High School	KRBH-LP
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**Market Tally**

NCE Programming via Translator	21
Total Translator	
Translator MX/Pending FX	1
Current Licensed LPFM within 30 km	2
Current LPFM Availability in Redding City	0
Full Power NCE	5
Total Studio Waived	(4)
Total Local Studio	(1) <sup>3</sup>

According to the FCC and Supreme Court's interpretation of Section 307(b), although Redding has no NCE white or gray areas from the technical definition, the city could be an example where the Commission's current regulations do not uphold NCE fair distribution of service in terms of localism<sup>4</sup>.

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<sup>2</sup> Excluding Hayfork, CA

<sup>3</sup> Burney, CA, although does not officially cover city of Redding with 60 dBu

<sup>4</sup> FCC 07-218 Para 5

## **Wenatchee, WA – Market 175**

### **Wenatchee, WA – Total Non-Local NCE- relayed Programming**

EMF (Rocklin, CA)	KLUW, K204DD,
Lifetalk Radio, Inc (Collegedale, TN)	KCSH
Calvary Chapel of Twin Falls, Inc (Twin Falls, ID)	K207CS, K218DF
Washington State University (Pullman, WA)	K210DK, K212FK, KNWR, KLWS, K219BM, K217AJ
Chelan Christian Broadcasting ( <i>for</i> The Moody Bible Institute of Chicago (KMBI, Spokane))	K215AD
Community Log Church ( <i>for</i> The Moody Bible Institute of Chicago (KMBI, Spokane))	K217ER
Spokane Public Radio, Inc. (Spokane, WA)	K220CQ

### **Wenatchee, WA – Local-Programmed Student/Community/Public NCE Stations**

None<sup>5</sup>

### **Wenatchee, WA – Student/Community Programmed LPFM Stations**

Wenatchee Youth Radio <sup>6</sup>	KWEW
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### **Market Tally<sup>7</sup>**

NCE Programming via Translator	10
Total Translator	26
Translator MX/Pending FX	~17 groups
Current Licensed LPFM	1
Current LPFM Availability in Wenatchee	0
Full Power NCE	4
Total Nonlocal	3
Total Local Studio	1

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<sup>5</sup> Wenatchee does have local Christina station KPLW, Growing Christian Foundation

<sup>6</sup> Christian Youth station, but included here because youth is an underrepresented demographic

<sup>7</sup> Includes Leavenworth-Cashmere-Chelan area

## **Reno, NV – Market 124**

### **Reno, NV<sup>8</sup> – Total Non-Local NCE- relayed Programming**

Calvary Chapel of Twin Falls (Twin Falls, ID)	K200AA, K207CP, K210BT, K254AR, K259AK, K291BJ
Your Christian Companion Network (Stockton, CA)	K201HO, K259AY
EMF (Rocklin, CA)	KLRH, K297AS
Family Stations, Inc (Sacramento, CA)	K206BI, K223AL, K254AK
Cal State Univ, Sacramento (Sacramento, CA)	K211EH, K215DS, KKTO
IHR Educational Broadcasting (Fair Oaks/Tahoma)	K228DA, K235BJ
Radio Assist Ministry, Inc	K241BK (for EMF)
Eastern Sierra Broadcasting	K269FC (for EMF)
Nevada City Community Broadcast Group	K286AN

### **Reno, NV – Local-Programmed Student/Community NCE Stations**

None

### **Reno, NV – Student/Community Programmed LPFM Stations**

None

### **Market Tally**

NCE Programming via Translator	19
Total Translator	33
Translator MX/Pending FX	~9 groups
Current Licensed LPFM	0 <sup>9</sup>
Current LPFM Availability in Reno	0
Full Power NCE	5
Total Nonlocal	1
Total Local Studio	4

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<sup>8</sup> Reno-Truckee-Carson City area

<sup>9</sup> However, Calvary Chapel of Carson Valley has an LPFM 40 miles south of Reno in Gardnerville.

## **Bakersfield, CA – Market 77**

NCE band snapshot:

Local/ NonLoc	Program Origination	Freq	Chan	Call	Community of License	Format	Owner
NL	SANTA MONICA CA	88.1	201B1	KCRY	MOJAVE CA	NPR	SANTA MONICA COMMUNITY COLLEGE DISTRICT
L	BAKERSFIELD CA	88.3	202B1	KAXL	GREENACRES CA	RELIGIOUS	SKYRIDE UNLIMITED, INCORPORATED
NL	(ROCKLIN CA)	88.7	204B1	KYLU	TEHACHAPI CA	RELIGIOUS	EDUCATIONAL MEDIA FOUNDATION
NL	FRESNO CA	89.1	206B1	KPRX	BAKERSFIELD CA	NPR	WHITE ASH BROADCASTING, INC.
NL	TWIN FALLS ID	89.3	207D	K207DJ	LAKE ISABELLA CA	RELIGIOUS	CALVARY CHAPEL OF TWIN FALLS, INC.
NL	(ROCKLIN CA)	89.5	208B	KAIB	SHAFTER CA	RELIGIOUS	EDUCATIONAL MEDIA FOUNDATION
NL	SANTA MONICA CA	89.7	209D	K209CN	GORMAN CA	NPR	SANTA MONICA COMMUNITY COLLEGE DISTRICT
NL	BIG LAKE TX	89.7	209D	K209CW	BUTTONWILLOW CA	RELIGIOUS	PAULINO BERNAL EVANGELISM
NL	CARRIZO SPRINGS TX	89.7	209D	K209DN	MCFARLAND CA	RELIGIOUS	PAULINO BERNAL EVANGELISM
NL	(ROCKLIN CA)	89.7	209D	K209FB	EDISON CA	RELIGIOUS	EDUCATIONAL MEDIA FOUNDATION
NL	FRESNO CA	90.1	211B	KTQX	BAKERSFIELD CA	LATINO	RADIO BILINGUE, INC.
NL	TWIN FALLS ID	90.5	213D	K214ED	BENA CA	RELIGIOUS	CALVARY CHAPEL OF TWIN FALLS, INC.
NL	CAMARILLO CA	90.9	215B	KGZO	SHAFTER CA	RELIGIOUS	THE ASSOCIATION FOR COMMUNITY EDUCATION, INC.
NL	TWIN FALLS ID	91.1	216D	K216EW	KERNVILLE CA	RELIGIOUS	CALVARY CHAPEL OF TWIN FALLS, INC.
NL	(SACRAMENTO CA)	91.3	217B	KFRB	BAKERSFIELD CA	RELIGIOUS	FAMILY STATIONS, INC.
NL	(SACRAMENTO CA)	91.7	219D	K219AO	FAIRMONT, ETC. CA	RELIGIOUS	FAMILY STATIONS, INC.
*	?	91.7	219A	KFHL	WASCO CA	RELIGIOUS	MARY V. HARRIS FOUNDATION
NL	CARRIZO SPRINGS TX	91.9	220D	K220GU	LOST HILLS CA	RELIGIOUS	PAULINO BERNAL EVANGELISM

\* Owner based in Texas owns a few stations in different parts of country,

**Figure 2: NCE FM Snapshot: Bakersfield, CA area radio market. NL = Nonlocal program origination, L = Local program origination.**

### **Bakersfield, CA – Total Non-Local NCE relayed Programming**

Santa Monica Community College District (Santa Mon., CA)	KCRY, K209CN
EMF (Rocklin, CA)	KYLU, KIAB, K208FB, K284AO
White Ash Broadcasting (Fresno, CA)	KPRX
Calvary Chapel of Twin Falls (Twin Falls, ID)	K207DJ, K214ED, K216EW, K260BI, K289AN
Paulino Bernal Evangelism (Texas)	K209CW, K209DN, K220GU
Radio Bilingue (Fresno, CA)	KTQX
The Association for Community Education (Camarillo, CA)	KGZO
Family Stations, Inc (Sacramento, CA)	KFRB, K219AO
Mary J Harris Foundation (Las Vegas, NV(?))	KFHL
Horizon Christian Fellowship (San Diego, CA) <sup>10</sup>	K239AZ, K240DH,

<sup>10</sup> Rebroadcasts KQKL Selma (EMF), KGZO, and KWDS (Kettleman City)

Ondas de Vida, Inc  
 Community Educational Broadcasting (Visalia, CA)  
 Juan Alberto Ayala (Texas)

K270AK,  
 K279BE, K295AZ  
 K293AG  
 K261CO  
 K262BP (repeats  
 KCRY, Santa Monica  
 (KCRW))

**Bakersfield, CA – Local-Programmed Student/Community NCE Stations**

None

**Bakersfield, CA – Student/Community Programmed LPFM Stations**

Young Urban Broadcasters Association                      KRHM-LP<sup>11</sup>

**Market Tally**

NCE Programming via Translator	19
Total Translator	19
Translator MX/Pending FX	~11 groups
Current Licensed LPFM	1
Current LPFM Availability	see footnote <sup>12</sup>
 Full Power NCE	 7
Total Nonlocal	6
Total Local Studio	1

**Portland, OR – Market 23**

Portland is fortunate to have one full power community radio station, but does not have one full power FM student radio station. In 2005 a Portland music collaborative project attempted to run a micropower community station to serve the city's music and arts scene; the FCC eventually sent a letter to discontinue operations. It is worth noting that due to a combination the Commissions changing of the rules regarding community of license changes and the 2003 translator window, that even if the third adjacent LPFM

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<sup>11</sup> Reportedly programmed by one person. 60 dBu contour barely gets into south Bakersfield; there is a translator licensed to Bakersfield on the first adjacent channel.

<sup>12</sup> Possibly Ch 273 in W of Bakersfield, or N of town on 277



rule is repealed, there will be no open LPFM frequencies to be applied for in the city of Portland. Instead, the FCC has licensed out-of-town broadcasters to fill these frequencies with programming devoid of local content:

**Portland, OR – Total Non-Local NCE-originated Programming**

<b>EMF (Rocklin, CA):</b>	<b>5 translators (K224CP, K240CZ, K242AF, K249DK, K274AR) and two full power stations on Mt. Hood (KLVP, KZRI)</b>
<b>WAY-FM (Colorado Springs, CO):</b>	<b>(KWYQ via) K284BF, K272EL, K228EU</b>
<b>Family Stations (Sacramento, CA):</b>	<b>KPFR</b>
<b>Calvary Chapel (Twin Falls, ID):</b>	<b>K220IN, K231AM, K288FT, 273AI</b>

**Portland, OR – Student/Community Programmed Stations**

<b>KBOO Foundation</b>	<b>KBOO</b>
<b>The Reed Institute</b>	<b>KRRC (Class D, 10 watts, 4 m HAAT)</b>
<b>PCUN</b>	<b>KPCN-LP (43 km from Portland)</b>

**Market Tally**

<b>NCE Programming via Translator</b>	<b>12</b>
<b>Total Translator</b>	<b>14</b>
<b>Translator MX/Pending FX</b>	<b>~9 groups</b>
<b>Current Licensed LPFM</b>	<b>0</b>
<b>Current LPFM Availability</b>	<b>0</b>
<b>Full Power NCE (reception)</b>	<b>8</b>
<b>Total Nonlocal</b>	<b>3</b>
<b>Total Local Studio</b>	<b>5</b>

Ironically, four LPFMs just outside the Portland area are crammed onto one channel in the vicinity (Channel 242, KQRZ-LP (Heritage Christian, Religious), KKJC-LP (Calvary Chapel, Religious), KPCN-LP (PCUN), and KQSO-LP (Western Oregon Radio Club) and KRRC (Class D educational), all face encroachment by KWLZ-FM and KNRQ-FM—both commercial stations which desire to abandon their original communities of license and move to the Portland area. The LPFMs are small town/rural stations not heard in city of Portland (all greater than 30 km away except for KQRZ-LP, 23 km from Portland), but

serve the local populations of small towns/cities; the Class D station serves the Reed student community within Portland. The above is an example of how FCC regulations are fashioned to favor non-local networks on a grand scale, yet discourage community broadcasting, with a net decrease in localism.

### **Phoenix, AZ - Market 15**

Phoenix does not have any student or community radio stations. It has one local LPFM station that emulates a commercial alternative rock station format (KWSS-LP).

Apparently you can receive three full power radio stations with EMF programming delivered via satellite to Phoenix from California.

#### **Phoenix, AZ Non-Local Programming**

Nation. Farmworkers (Keen,CA)	KNAI
Family Stations (Sacramento, CA)	KPHF, K205CI
EMF (Rocklin, CA)	KLVK, KLVA, KZAI, K204DR
Calvary Chapel (Twin Falls, ID)	K210DY
Family Life Broadcasting (?)	KFLR
Life On The Way (Sherman Oaks, CA)	K214DN
World Radio Net (MacAllen TX)	K216FO

#### **Phoenix, AZ – Student/Community Programmed Stations**

None

#### **Market Tally**

NCE Programming via Translator	8
Total Translator	13
Translator MX/Pending FX	~13 groups
Current Licensed LPFM	1
Current LPFM Availability	0
Full Power NCE (receivable)	7
Total Nonlocal	4
Total Local Studio	3

## **Los Angeles/San Bernardino/Riverside – Market 2**

### **Los Angeles/Inland Empire Non-Local Programming**

<b>Assoc. for Commun. Edu (Camarillo, CA)</b>	<b>K211DK</b>
<b>EMF (Rocklin, CA)</b>	<b>K212FA</b>
<b>Life On The Way (Lancaster, CA)</b>	<b>K216EM</b>
<b>Life On The Way (Lancaster, CA)</b>	<b>K216FM</b>
<b>EMF (Rocklin, CA)</b>	<b>K224DK</b>
<b>Assoc. for Commun. Edu (Camarillo, CA)</b>	<b>K251AH</b>
<b>Carlos Arana Ministries<sup>13</sup> (Camarillo, CA)</b>	<b>K252EI</b>
<b>EMF (Rocklin, CA)</b>	<b>K264AF</b>
<b>Calvary Chapel of Twin Falls (Twin Falls, ID)</b>	<b>K276EF</b>
<b>Assoc. for Commun. Edu (Camarillo, CA)</b>	<b>K295AI</b>

### **Los Angeles Student/Community Programmed Stations**

<b>Pacifica Foundation</b>	<b>KPFK</b>
<b>Loyola Marymount College</b>	<b>KXLU</b>
<b>Pomona College</b>	<b>KSPC</b>
<b>Univ of Calif, Riverside</b>	<b>KUCR</b>
<b>Univ of Calif, Irvine</b>	<b>KUCI</b>
<b>Pepperdine University (Religious, student)</b>	<b>KWVS-LP</b>
<b>Startree Foundation</b>	<b>KOCI-LP</b>

### **Market Tally**

<b>NCE Programming via Translator</b>	<b>10</b>
<b>Total Translator</b>	<b>10</b>
<b>Translator MX/Pending FX</b>	<b>~19 groups</b>
<b>Current Licensed LPFM</b>	<b>4<sup>14</sup></b>
<b>Current LPFM Availability</b>	<b>0</b>
<b>Full Power NCE (receivable)</b>	<b>Multiple<sup>15</sup></b>
<b>Total Nonlocal</b>	<b>-</b>
<b>Total Local Studio</b>	<b>(All)</b>

Local student/community radio has better presence in Top-10 markets compared to non-local programming. KPFK covers the southland, and regional student stations are

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<sup>13</sup> Locally owned translator rebroadcasts Camarillo, CA channel

<sup>14</sup> Pepperdine University (Malibu), Startree Foundation (Newport Beach), Andres Serrano Ministries (Corona), and Vida Abundante Church (San Bernardino)

<sup>15</sup> Depending upon which part of the Southland you are in, KKJZ, KCSN, KSPC, KUCI, KXLU, KPCC, KCRW, KCRW, KPFK, KUSC...

receivable in a third of the metro. Translators with non-local programming mainly appear on the rim of the metro, as most translator frequencies are currently pending.

## Conclusions

The above gives us a glimpse of NCE/LPFM non-commercial localism in regards to markets of varying size. The following could be concluded:

1. The top 10 largest radio markets usually have multiple NCE student or community-oriented radio outlets. Older markets, such as in New England, that have started out early granting Class D and Class A NCE's, have a diversity of college radio stations. However, large (*non-top 10*) to small markets have little or no local community-based or student programming, but have multiple sources for non-local programming.
2. In each market examined except Los Angeles, Educational Media Foundation owns more full power stations than all local community and student radio *combined for those markets*. In all communities, the single LPFM station represents the capable desire of people to start FM stations for students and the communities, but most likely aren't aware of the protocol for obtaining full power stations, or don't have the ability to apply<sup>16</sup>.
3. There is a large gap between **non-local noncommercial programming** and **local non-commercial programming** in many communities. There is **zero, one, or**

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<sup>16</sup> NCE application opportunities are few and far between. To claim a frequency you almost have to be in the right place at the right time; if not, there is no possibility of ever starting a full power radio station. Common Frequency performed outreach to student and community groups before the October 2007 filing window. Most groups contacted were unaware of the application window, had no time to prepare (it takes months to years for student groups to receive permission from University officials, or colleges or state universities to change their by-laws to conform to the FCC point system), and had problems finding engineers and lawyers to help them file because those services were already booked in advance for the window.

**two local non-commercial services** while at times **five to twenty non-local network/automated services** are available.

4. Satellite stations have the ability to deliver quality programming into areas, such in the case of KQTX (Radio Bilingue) and KPRX (NPR) in Bakersfield, but when multiple religious and public broadcasters have satellite stations in the same area (like NPR in Redding), redundant programming sources prevent local entities from utilizing channels. KPRX (Valley Public Radio), originating out of Fresno, has” Kern Advisory Council” for Bakersfield—kudos to them for this effort.
5. There is minimum or no availability of additional open channels for any new non-commercial service in many major cities<sup>17</sup>; this is seen as problematic for restoring the balance between local community and non-local NCE service.
6. Larger markets have experienced a multicultural growth in preceding years and require more than the few college and community radio outlets to meet localism needs. While this may be true of other markets ranked 11+, markets 11+ need to work on creating the *bare essentials* for local community or student educational radio. This cannot be achieved without enacting one or more of the following: A) opening up more NCE channels via expanding the band into analog Channel 6 frequencies, B) changing LPFM licensing requirements to allow for placement of the service in larger urban areas, C) requiring current broadcasters that don’t provide any local programming to allow community members to utilize airtime

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<sup>17</sup> Including NCE and LPFM; NCE: Based upon preliminary study of nationwide NCE availability Radio for People Coalition in 2006, detailed NCE study of the top 140 markets from Public Radio Capital in 2007. LPFM: According to data by Rec Network (recnet.com), and sampling of markets regarding LPFM in comment by Prometheus and Common Frequency Re MM Docket No. 99-25, April 2008.

- for community affairs programming, or D) requiring community boards to provide development of more local programming.
7. The major obstacle in providing any local non-commercial community programming in cities are full power stations and translators that are operated from hundreds to thousands of miles away. Viewing the current licensed stations, and current translator and NCE application backlog, we believe that some NCE broadcasters desire to create national networks.
  8. In the small markets observed, all the NCE programming originates from outside the market. A single LPFM station usually provides the only local non-commercial programming. It seems ironic that the large stations that provide minimal or no local coverage are allowed to monopolize local frequencies, but the local station is relegated to lower wattages. Small markets can have 10 times as many translators than LPFMs, simply due to FCC regulations.
  9. It is incorrect to assume all small markets have LPFM openings and this will solve all localism problems. Ithaca, NY, market 285, has no LPFM openings, even if the third adjacent is repealed.
  10. Main studio waivers and translator rules have generally worked against local NCE and LPFM station ownership and outlets for local programming. Lack of oversight of these non-local program sources has essentially locked out local communities from the airwaves. Even more crucial, it has created a dangerous situation where local emergencies cannot be adequately addressed using the public's airwaves. The Commission has asserted that 307(b) pertains to both transmission and reception service. Transmission service "is the opportunity

which a radio station provides for the development and expression of local interests, ideas, and talents and for the production of radio programs of special interest to a particular community”<sup>18</sup>. Current regulations only enforce NCE reception service (NCE “white” and “gray” areas) and not transmission service. The Commission should be required to make local service available, such as by reserving a commercial channel for reserved use in areas where local-originated NCE programming does not exist.

## **II. Main Studio Waiver and Localism**

### **Informal Overview**

As far back as its inception, the FCC has considered the main studio a key attribute of local public service. In modern era of deregulation, it is one of the only characteristics that tie a licensee to its community of service. It is no coincidence then that the non-commercial main studio waiver has eliminated any local commitment of the licensee to serve a community of license. Waivers are granted solely on faith, with no promise of the licensee to provide any proof of localism, no matter how loosely defined.

Theoretically, a 100-watt station in Alaska could have multiple 100 kW studio-waived stations in Phoenix, Seattle, and Washington, DC, and is not required to produce any specialized local programming for these areas; this type of operation is not in the public interest. Although we do believe the studio waiver is useful for licensees who have a dedication to serving all of their communities, it is a disservice to licensees who ignore the needs of local communities because the FCC does not stipulate any minimum local

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<sup>18</sup> Rulemaking concerning main studios, 15 FR 8993 (1950)

programming commitment. The evolution of the waiver process was informal, based upon its use in statewide public networks, and the good that resulted from that. However, much of that good was derived from the regimented ideology of public licensees, which are bound by nature to serve in the public interest, and are constrained geographically by governing documents. These licensees pioneered the “good cause” the Commission now utilizes to grant waivers. However, due to many reasons, these original “good causes” are rarely exhibited nowadays. Due to overall impact these waivers have on localism, we believe a re-assessment is in order.

## **Analysis**

We assert that the basis for granting main studio waivers needs to be re-examined due to the following concerns:

NCE scope has changed: In recent years, the growth of national NCE networks requires an update of the antiquated main studio waiver policy in order to properly address new localism concerns. Studio waivers were traditionally assumed to be used by state and regional networks in which the scale of execution allowed for addressing community needs; precedence was chiefly set by trustworthy publicly owned state networks, which by nature and proximity address all regional/local issues<sup>19</sup>. The FCC never has assumed or referred to non-regional, or “national networks”, but has applied state network customs to national networks without judging whether the scale of such networks impact localism.

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<sup>19</sup> By example, Georgia State Board of Education 70 FCC 2d 948 (1979), Nebraska Educational Television Commission 4 RR 2d 771 (1965)



Larger national networks rarely if ever tackle local issues or have news programs specific to individual communities.

Moot process: The waiver process of has been previously been described by the Commission as “traditionally addressed on a case by case basis”<sup>20</sup>. According to CDBS, the available database record of main studio waiver granting shows 666 approved, and eleven denied. Of those eleven denied, one was for a non-reserved channel<sup>21</sup>. This leaves 666 approved, and one dismissed. The characteristic of an approved main studio waiver in modern times appears to be merely supplying a standardized statement to the Commission asking for a waiver, with the licensee prescribing terms of operation. We don’t see this as following a process described, since forwarding a boilerplate statement to the Commission to disregard a rule (and if the licensee is non-commercial, the Commission addressing that it has waived the rule before), does not seem like a *case-by-case* basis. For example, on just *one day* in 2007, the FCC granted eight waivers to one licensee<sup>22</sup>. A *case by case* basis would include examining comprehensive attributes of the licensee’s request, such as the licensee’s track record in providing local-specific programming to communities served, how many total stations are owned by the licensee, how this will affect the community of license, what other licensees are already broadcasting to the community, are their any more channels in the community, is the licensee trafficking licenses after they are granted, etc. We understand that the

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<sup>20</sup> *Amendment of Main Studio and Program Origination Rules*, 3 FCC Rcd 5027 (1988)

<sup>21</sup> The Commission usually denies main studio waivers for commercial stations because it is based upon economic efficiencies only suitable for non-commercial broadcasters. Example: *See Letter to Donald E. Martin, Esq Re: Main Studio Waiver Request for KRHV* (June 10, 2005)

<sup>22</sup> According to FCC CDBS, Broadcasting for the Challenged, Inc received eight approved main studio waivers on 6/13/2007 (and seven on 10/25/2006).

Commission has good intent in granting these waivers, but just by judging from 1) the percentage of NCE main studio requests denied (~0.2 %), and 2) the existence of top 300 markets without even one NCE main studio (the examples here: Redding, CA, San Angelo, TX,) it could be concluded that the Commission's *case by case* system and 47 C.F.R. § 73.1125(a)(4) could use some "retooling" in light of the demand for localism.

Unequal Service Obligation: The main studio waiver treats the population of a satellite station's community differently than the community with the main studio: 1) The waiver allows the licensee to pick terms of service that often include casual stipulations, research, ascertainment, etc, in lieu of a local public file, but these terms do not impose any requirement for documenting these actions in a public file. 2) The Commission asserts the main studio exists to ensure a station "realistically meet[s] their obligation to serve their communities of license as outlets for local self-expression."<sup>23</sup>; however, the commitment of local expression is largely ignored under the waiver and not well defined, therefore the local service requirements are unequal. The FCC needs standardized, transparent requirements for all studio waived stations.

Based upon obsolete, traditional, and unproven standards: The Commission puts forth outdated justification for granting waivers in 1988: "*traditionally* addressed", "*in the past, we have recognized* the benefits of centralized operation"—and that was even twenty years ago<sup>24</sup>. The Commission didn't touch upon the subject of non-commercial

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<sup>23</sup> FCC Proposed Rulemaking, 35 FR 15305 (1970)

<sup>24</sup> *Amendment of Main Studio and Program Origination Rules*, 3 FCC Rcd 5026-27, (1988)

waivers in its reexamination of main studios in 1998<sup>25</sup>. The Commission has adapted rules regarding main studios, public service, ownership limits, etc many times over the decades to update regulations to reflect the current technology and marketplace. The Commission *once* recognized the benefits of centralized operation, but does it recognize, or has it measured, its detriment to localism? Our current sampling of markets in this document show that studio waivers have impacted several markets' ability to receive adequate locally originated programming. The Commission provides no contemporary data to base waiving its own rules to essentially all NCE licensees that ask to be exempt.

Based upon proposal, not actual operation: The Commission grants waivers “only granted if shown the local community would be served” (3 FCC Rcd 5027). The licensee only needs to comment upon how the licensee *could* serve the community, but the Commission never validates if this is put into practice. The Commission says waivers are “valid and will remain in effect as long as the stations continue to operate under the terms of the waiver” (3 FCC Rcd 5027), yet 1) the Commission never performs any audit on a regular basis to see if the if the terms of the waiver were implemented, 2) the terms of the waiver are dictated by the applicant, not by standard regulation upholding the public interest, 3) no reports or validation that the promises in the waiver are being heeded by the licensee. In other words, under a waiver, the licensee is not held accountable to serve the local public interest. The terms the licensee may give to serve the studio-waived community may contain no obligation whatsoever of the broadcaster to actually run any amount of programming to serve the community. For example, the *only* programming

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<sup>25</sup> 13 FCC Rcd 15691, *Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files...* (1998)

stipulation in a waiver recently approved for KWRC, Hermosa, South Dakota, a satellite of KAWZ of Twin Falls, Idaho is for Calvary Church of Twin Falls (“CCTF”) to “provide programming responsive to the interests of Hermosa, South Dakota, and the other areas served by Station KWRC”<sup>26</sup>. Although they say they would become familiar and review matters of concern with the community, there is no enforceable rule or degree to which how thoroughly this is done, and there is no legal obligation to address any of these local concerns using even one second of airtime. If any member of the public wanted to challenge a studio-waived station for not serving the local public interest, there currently is no concrete definition of what “*not serving the community*” entails, or multiple cases from history that exemplify the conditions.

Does not account for upholding 307(b) transmission service: The Commission is required to uphold regulation for fair distribution of reception and transmission service<sup>27</sup>. The Commission enforces main studios because it believes an accessible main studio assures “interaction between the station and the community”<sup>28</sup>; this fulfills transmission service. Examples have been given where radio markets are in violation of NCE fair transmission service.

NCE funding and emphasis has changed: FCC asserts that NCE radio stations by nature have “limited funding”<sup>29</sup>; this lumps all NCE licensees into the same boat. The FCC is

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<sup>26</sup> *CCTF Main Studio Request for KWRC*, December 12, 2007

<sup>27</sup> Rulemaking concerning main studios, 15 FR 8993 (1950)

<sup>28</sup> *Amendment of the Main Studio Location* 52 FR 21684 (1987)

<sup>29</sup> A standard explanation for the Commission granting a waiver request; example: *Letter to Todd M. Stansbury, Esq., Re KGAC (FM), Saint Peter, MN* (October 16, 1998), *Letter to Jeffrey D. Southmayd, Esq., Re: Moody Bible Institute of Chicago* (December 10, 2002), etc

claiming that any entity with an educational program that does not exist to make profit will have financial difficulty in maintaining additional studios. On this list includes private universities with billion dollar endowments, state and regional governments with billions dollar budgets, EMF, with 56 million in revenue<sup>30</sup>, and mega-churches with millions in funds; the FCC never performs an audit. The main studio waiver originated before the Corporation for Public Broadcasting. The main studio waiver originated before the prevalence of 501(c)(3) organizations, which allows for the IRS tax deduction of donated amounts to a tax-exempt licensee. In 1960 *only 3000* 501(c)(3)'s existed, in 1970 *12,137*, in 1980 *49,100*, but as of 2004 *1,405,490* existed<sup>31</sup>. The main studio waiver additionally originated before the era of enhanced underwriting messages.

Today established NCE licensees have proven they are able to fork down millions of dollars to procure additional channels if desired—even commercial channels. The Commission occasionally cites that it recognizes “the ongoing problems of educational licensees in raising the necessary funds to expand and provide noncommercial educational programming to as many viewers [or listeners] as possible”<sup>32</sup>. We think the Commission should re-evaluate this assumption in the present day because:

- 1) In recent years, the price of building a local studio has dropped considerably.

With a personal computer, automation software, and even prosumer equipment you can originate a professional broadcast-quality audio anywhere. Programming is now delivered via IP from a myriad of on-demand sources, not via the mail on reel tape. Studio operators need not hold FCC licenses anymore, and broadcast

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<sup>30</sup> Source: *Forbes*

<sup>31</sup> 501(c)(3) organizations in the US; available from [www.data360.org](http://www.data360.org)

<sup>32</sup> *The Cederville College* 6 FCC Rcd 538 (1991)

equipment is easy to use. What once took a highly trained staff and can now be accomplished by an intern. Audio production is so cheap and easy that a kid could learn to do it with free software on his or her PC. Local studios aren't as expensive as "back in the day". The money spent from skipping the operation of a studio for the local public interest is recycled back into the organization as a mere a cost savings, not a continuance towards better programming. Volunteer LPFM and community NCE stations with only a couple hundred thousand dollar budgets are pumping out more local public affairs than satellite-relayed studio-waived networks. Cost savings on a studio studio-waived station *doesn't necessarily translate to any more local community service*<sup>33</sup>. In fact, the direct opposite could be proved very easily. The more stations a network has studio-waived actually means less community-specific programming for each additional community they serve compared to someone starting their own station in that community.

- 2) Expanding *general* NCE "to as many viewers as possible"<sup>34</sup> via established licensees is an outdated and even unfavorable concept relating to public service. First, virtually all the remaining open NCE channels have been applied for. The high demand for NCE channels in the October 2007 filing window, with most of the pending applications in mutually exclusive pools, indicate that *many* organizations are interested in providing NCE programming<sup>35</sup>. This boom of applicants is consistent with the exploding number of registered 501(c)(3)

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<sup>33</sup> The Commission states "the savings realized from not having to construct a main studio can be utilized to assist WAMC in expanding *quality* programming to a greater number of listeners." (from *Sound of Life* 4 FCC Rcd 8273 (1989).

<sup>34</sup> From *Sound of Life*, FCC Rcd 8273 (1989)

<sup>35</sup> The Commission received "approximately 3,600 applicants" (Public Notice DA 08-536, March 7, 2008)

nonprofits cited above. There are no “ongoing problems”<sup>36</sup> with “limited funding”<sup>37</sup>, as all of these applicants have validated funds needed to build facilities (transmission and main studio) and operate at least three months<sup>38</sup>. Second, in the post October 2007 NCE filing window world we have entered a new age in which networks and NCE coverage have been extended to as many listeners as possible under non-commercial station placement rules<sup>39</sup>. At the same time, compared to just decades ago, towns that were once ‘hole in the walls’—receiving primarily translator-repeated and studio-waived programming—are now up-and-coming metros with developing communities of their own. Latino, Asian, Middle Eastern, etc, cultures now add to the diversity of these areas.

As we enter this new age of spectrum congestion, urban (MSA) growth, technology, and diversity, the original NCE policies of *first come first served* applications and *expansion of networks* are not serving the local public interest. There comes a time when a small community, serviced with primarily translators and studio-waived stations, develops into a full-grown radio market capable of economically supporting local-originated content. At this point—in theory—a studio-waived service should yield to new local content-savvy licensees if the studio-waived licensee cannot add a studio and/or increase local content. However, this is virtually impossible under the current rules. Local communities should be able to demand equal local service to the big cities, within

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<sup>36</sup> From *Sound of Life*, FCC Rcd 8273 (1989)

<sup>37</sup> From *The President and Board of Trustees of Miami University* 7 FCC Rcd 2902 (1992)

<sup>38</sup> FCC Form 340, Section II, Questions 15-17: NCE applicants must demonstrate financial qualifications.

<sup>39</sup> In the last NCE application window, most of the last remaining frequencies in populated areas were applied for. 47 CFR § 73.509, the contour overlap rules, predict the finite amount of channels to be open in all locations.

feasible means, under Section 307(b). Since the Commission has eradicated an ascertainment policy, the guidelines for what degree a network should serve each local community is ambiguous, and during license renewals, the public has no recourse for demonstrating good cause for a station license being revoked and used for more intensive local use.

Since ascertainment has been eliminated, a licensee only needs to claim the most general of terms—some election coverage, national news pertaining to local issues, coverage of some events in that community—to pass minimal local service requirements<sup>40</sup>. If the FCC does not prescribe exactly what it considers adequate local public service in advance, it is impossible for members of the public to show that a licensee is not serving a community when alleging complaints pursuant to Section 309(d). But more importantly, **it would be helpful if the Commission could reveal what exactly constitutes a licensee *not serving a local community***. If there is no definite answer to this question, the idea of *public service* is undefined. If the answer to this includes a minimal service obligation that can be addressed chiefly with automation, without any local-specific programming—or if there is no difference between national, regional, and local programmed stations—the terms *localism* and *local studio* are meaningless. In *Georgia State Board of Education*, the Commission states that “the obligation of each broadcast licensee, commercial and noncommercial alike, is and always has been to serve the problems, need and interests of the communities which it is licensed” regardless of what kind of programming distribution (local station or network) the licensee has

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<sup>40</sup> See *Santa Monica Community College District*—defense of KCRI, 22 FCC Rcd 12951 (2007) for an example.



developed<sup>41</sup>. The FCC indicated that it grants stations with disregard to whether an organization considered itself a state network with a regional emphasis. We could then make the assumption that both studio waived stations, and local stations with studios, need to serve the the community of license equally regardless of main studio location, program origination location, or organizational structure. **If we know a station is to be programmed to include the local level, what differentiates local- from regional- or national-only programming (such as *Sirius/XM*), and what percentage of local-only programming constitutes appropriately addressing localism?** Due to the proliferation of main studio waivers in local, regional, and national networks, this issue needs to be defined if localism is to be addressed. Is “localism” a file cabinet labelled “public file”, and a studio staffed merely to take phone calls, mail public file documents, and have physical presence near the community of license? Is it a fulfillment of certain programming requirement?

Error in original logic for granting studio waivers: If licensing a second, third, fourth...(consecutive studio waived station), it is implied *any* new station is a financial burden. Then how does one explain the first station with a full staff and studio being licensed—the feasible operation in the first place—or any of the individually licensed NCE stations out there producing quality programming? (*Or how does one explain that an applicant answers FCC Form 340, Section II, Questions 15-17 and confirms money on hand to build a studio, but then declares it is a hardship later?*) The original logic behind the main studio waiver was that the licensee’s original station was in a prime market with enough population to support a full studio and quality local-produced

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<sup>41</sup>*Georgia State Board of Education, WVAN-TV license renewal 70 FCC 2d 948 (1979)*

programming. The satellite stations were traditionally in very small communities that couldn't support an entire new station. This would imply small population is the basis for studio waivers, but the modern basis for the waiver never hinges upon that original contingency, and it cannot enforce any "quality"<sup>42</sup> of community programming once demonstrated by the original state network, so the waiver is baseless under "good cause", but granted by tradition nevertheless.

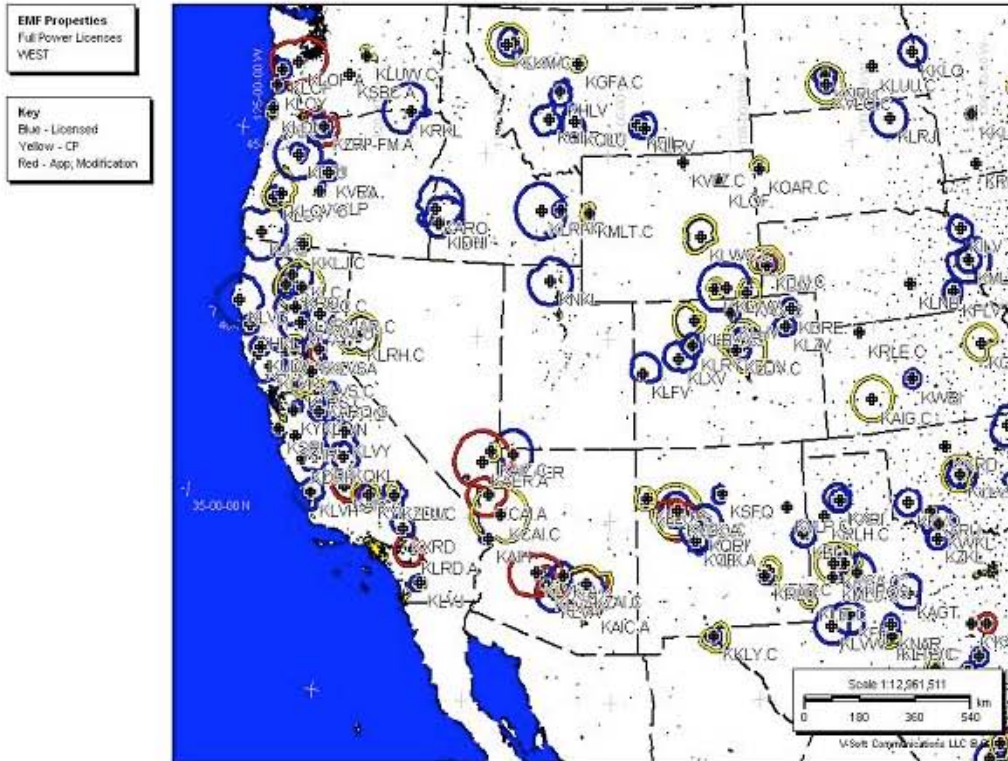
### **Localism & Main Studio Waiver Example: Educational Media Foundation (EMF)**

EMF owns about 250 stations and 330 translators (with about a 1000 pending applications) across the United States<sup>43</sup>. It has studio-waived stations in major cities, but it is unclear that it is providing any programming in terms of local public service to any of its satellite station communities. Below is a combined plot of their FCC 60 dBu contours (excluding translators):

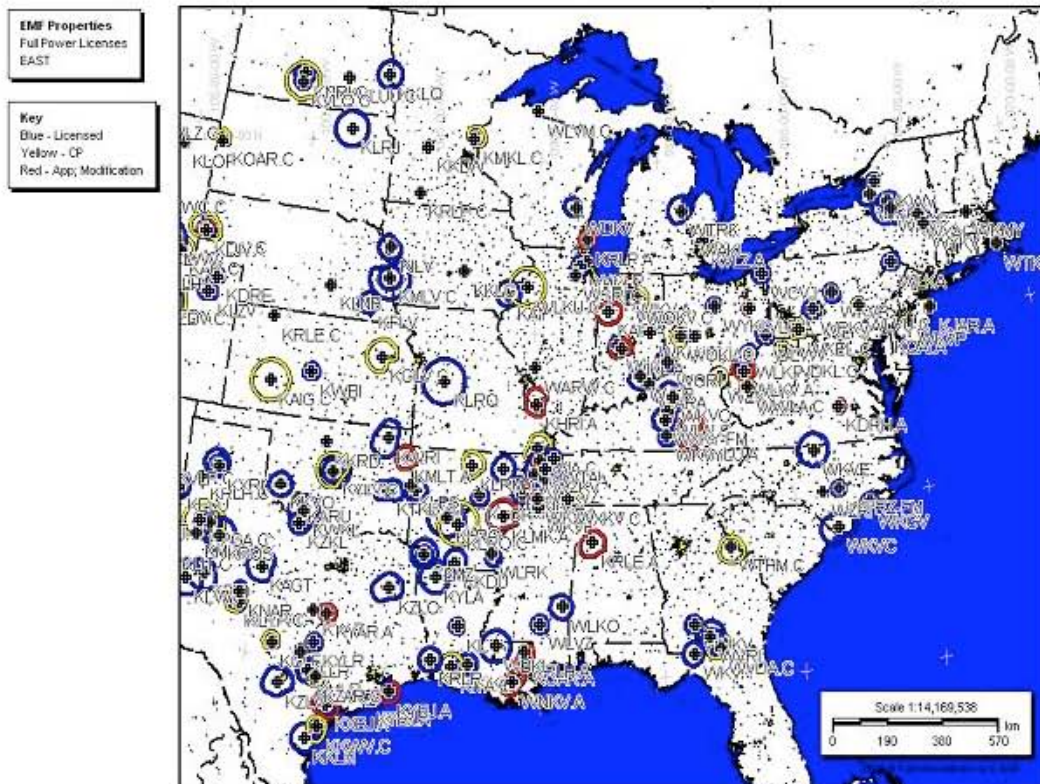
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<sup>42</sup>The FCC makes reference to "quality programming" in granting studio waivers (such as in *Miami University* and *Sound of Life*). The FCC is inferring that *all NCE programming is quality programming*, when it is not.

<sup>43</sup> Source: FCC database



**Figure 3:** Educational Media Foundation, Full Power FM Network (West US Shown)  
Blue=Licensed, Yellow=CP, Red=Application/Modification



**Figure 4:** Educational Media Foundation, Full Power FM Network (East US Shown)  
Blue=Licensed, Yellow=CP, Red=Application/Modification

EMF, under the moniker KLOVE, has a main studio licensed to the community of Middletown, CA. Middletown has a population of 1,020 people. EMF also has an additional network called AIR 1. We are unsure how it is able to broadcast to a national audience (The United States) using a few main studios—with redundant signals and services in some cities—yet serve the local public interest at the same time. The Commission has applied the rules once utilized for a statewide network to build the largest radio network in the United States, chiefly using free NCE licenses. According to

the criteria used to grant these waivers, the FCC is allowing EMF to license an automated radio station network because it recognizes “financial difficulties”<sup>44</sup> that EMF has in raising the necessary funds to expand to reach all corners of the United States. If this is the true assumption, we intuitively realize that the granting of each additional studio waiver works against localism, with each additional satellite community meaning one less local NCE channel. More importantly, we realize the basis for studio waivers has outlived its usefulness in a world where there is high demand for educational organizations desiring to start local stations to serve their communities. EMF is fairly new, commencing in the 1980’s. It appears the last remaining urban NCE frequencies were chiefly granted for regional and national programming networks in the 90’s and early 00’s. As seen in our examples previous in this comment, most cities are devoid of even one full power community radio station to service the full spectrum of cultures, ages, music, and community affairs programming, while EMF enjoys redundant services in many cities.

Although EMF is a non-profit, it is able to buy both non-commercial and commercial frequencies across the US with ease, able to pay upfront for coveted frequencies (See Appendix A). Although EMF competes with commercial programmers, and air sound emulates a commercial station, they are allowed to operate as an educational broadcaster, which gives it the ability to waive local studios and not have ownership caps.

In cases where public and college licensees are strapped for cash, they are able to sell their local frequencies to national networks that in turn automate their programming from

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<sup>44</sup> From EMF main studio waiver request

some other part of the country. In these cases, educational channels are sold to the highest bidder in commercial-esque fashion; the new owner usually doesn't have any interest in serving the local community. In the case of KTPD Kilgore, Texas, Kilgore College (See Appendix A), the only public station in the area was sold to EMF and automated; the local community had no say in the transaction. Kilgore, Texas can receive five or six religious stations, but nothing else on the NCE dial.

### **Example 1: Localism and Main Studio Waiver – KLOP**

In a recent request, EMF has asked the Commission for a minor modification of KLOP Ocean Park, WA. The station is additionally studio-waived, and receives a feed from its Middletown, CA station, KLVR. Plotting this station's coverage we see that it will cover almost everyone in Western Washington. It will be one of the largest FM providers in the station of Washington, reaching over 2.5 million listeners with a  $\geq 60$  dBu signal<sup>45</sup>, or receivable by 3 million people within audible reception (54 dBu L-R). The proposed FCC 60 dBu contour, reaches from the Pacific Ocean to Seattle, WA. (See Figure 5)

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<sup>45</sup> According to Longley Rice propagation plot.



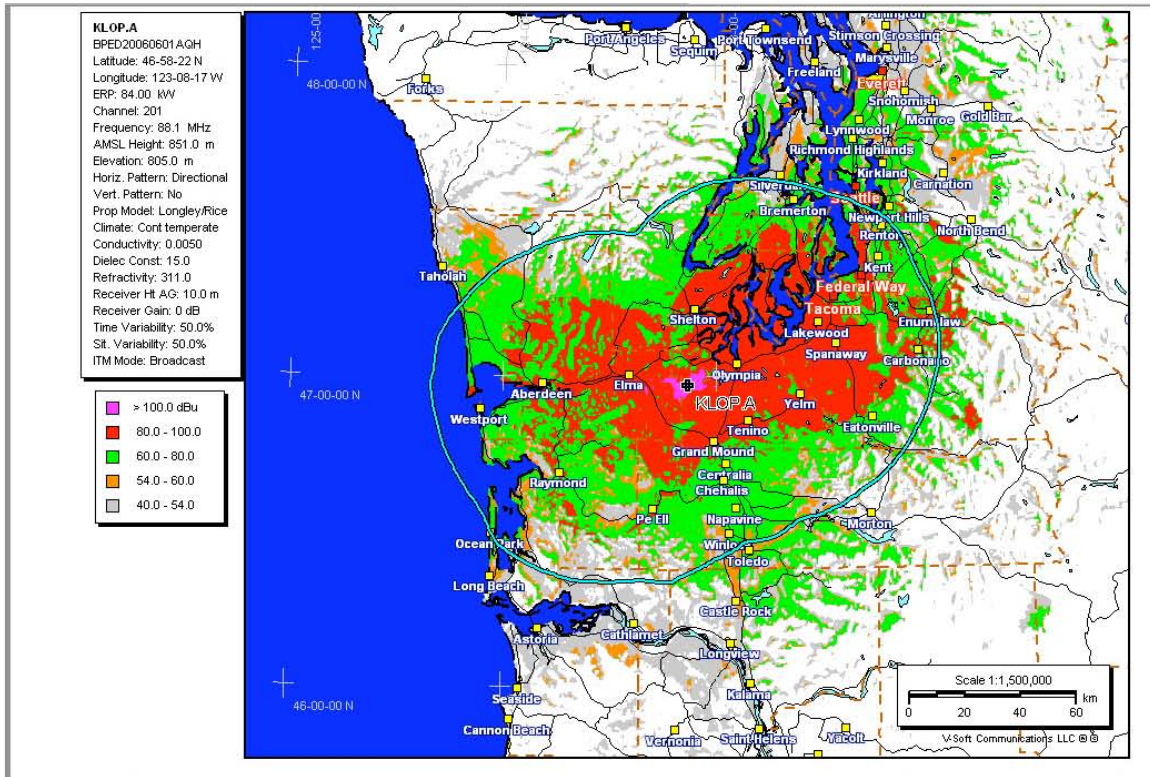


Figure 5: KLOP Proposed

We ask the Commission: How does waiving the main studio of a station that serves almost half of Washington State benefit the local public interest? How does this same model serve localism across the country?

## Example 2: Limiting Local Educational Radio

As examined previous in this comment, the community of Bakersfield, California has no community or college NCE stations. All but one NCE service is by network. In 2007, a local arts group called the Empty Space set out to apply for a non-commercial frequency. Like many communities, there weren't any NCE channels available to directly serve Bakersfield. Regardless, they set out to apply for a frequency that may be able to impart a fringe signal into Bakersfield from 25 miles away with a couple hundred watts. Before

the filing window, EMF filed a minor modification to expand the coverage area of one of its 50 kW stations (on the adjacent channel to Empty Space’s application) by a few miles. This small modification limited Empty Space’s ability to get a fringe signal into Bakersfield, but Empty Space applied anyway. Soon after the NCE application window, they discovered their application was singleton. They contacted EMF to see if they could rescind their minor modification. According to KLOVE and AIR1 websites, EMF has four channels that serve Bakersfield (two full power stations—KYLK and KAIB—and two translators—K206FB and K284AO). An EMF signal specialist replied that they could not accommodate Empty Space’s request. We think it is unfortunate that a network that has four satellite-relayed signals in a market cannot accommodate a request from a group to start the only local community educational service in an area. Also unfortunate is the fact that the Commission doesn’t require EMF to provide any local programming whatsoever to Bakersfield. The public essentially has no resources for demanding local programming.

### **Multiple Signals Per Market**

According to KLOVE and AIR-1’s websites EMF serves major cities—like San Francisco, San Jose, San Diego, Saint Louis—and has multiple services via translator or main studio waiver in cities like these:

Portland	4 channels: 2 <i>KLOVE</i> , 2 <i>Air 1</i>
Las Vegas	3 channel: 2 <i>KLOVE</i> , <i>Air 1</i> ( <i>See Appendix B</i> )
Phoenix	4 channels: 2 <i>KLOVE</i> , 2 <i>AIR1</i>
Austin	3 channels: 3 <i>KLOVE</i>
Oklahoma City	2 channels: 1 <i>KLOVE</i> , 1 <i>AIR 1</i>
Kansas City	2 channels: 1 <i>KLOVE</i> , 1 <i>AIR 1</i>
Louisville, KY	6 channels: 3 <i>KLOVE</i> , 3 <i>AIR 1</i>



In this case, how does EMF serve localism in satellite communities from its small town California studios? Additionally, does the compounded effect of multiple NCE networks in communities affect the local public's ability to secure access to the airwaves? How can studio waived networks effectively react to local emergencies in satellite communities? Regardless of being a nonprofit or not, organizations that have ample funds, and that can employ competitive professional practices, can use loopholes in the FCC's rules to plunder reserved channels that were originally meant to be set outside the competitive marketplace. Today we are in the same predicament that we were in decades ago when commercial stations started dominating the AM band, sparking the need for reserved educational channels.

In more general terms—studio waivers and translators—the FCC has given NCE licensees an exemption on any local public service requirement. For example, how does Calvary Chapel of Twin Falls, which serves the small town of Twin Falls, ID, serve the localism needs of Hawaiians with their 14 translators and one full power station fed via satellite to the state of Hawaii? One could say that Twin Falls, ID has more radio presence on the airwaves in Hawaii than many local Hawaiian groups combined. It is unfortunate that groups like URH, the student radio station at University of Hawaii at Hilo, need to stick with internet-only broadcasting (<http://radio.uhh.hawaii.edu/>) because the Commission has allocated channels in a way that favors non-local broadcasters with money. If all this passes current FCC localism standards, this could imply that the rules concerning non-commercial broadcast localism need some serious examination.

### **“Competitive Edge” of Networks Edge Out Independent, Local Alternative Voices**

Although we recognize and respect the quality public programming that NPR provides, and the free speech concerns of Christian broadcasters—as we are not against these movements—we are concerned that there is no room the remaining 99% of voices: local, cultural, historical, and independent music; viewpoints of youth, elderly, handicapped, booming cultural communities, farm workers, and unions; high school and college educational programs; religious (or non-religious)—Hinduism, Islam, Judaism, Quaker, Scientology, Atheist; city council meetings, local elections, and governmental access; community access, etc.

No matter how hard the public or the Commission pushes, realistically, if all of the Nation’s youth are listening to local hardcore punk and garage bands, you’re not going to get NPR to devote a show to it. If a community is 50% Latino, you’re not going to convince a Christian satellite broadcaster to broadcast a general non-Christian-themed Latino community affairs show to it. As the current public service requirements stand, only new services can provide this. We are concerned that there are no broadcast channels left for communities to directly serve themselves. During the last opportunity to apply for a NCE channel (October 2007), almost every channel in proximity to major urban areas was already taken before the window opened<sup>46</sup>. The key channels that were available within a year before the window were preemptively claimed by established broadcasters via minor modification, or by the help of the Commission’s recently

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<sup>46</sup> According to preliminary market studies performed through Radio for People Coalition and Public Radio Capital in 2006

changed community of license change rule<sup>47</sup>. Radio networks like EMF do not support the Commission's efforts regarding diverse access new non-commercial applicants—they did not support NCE application limits or LPFM service<sup>48</sup>. It appears services like EMF believe it is more important for them to have multiple services in satellite communities across the country instead of independent local community services. Because there are no full power channels left for the first local educational community-related radio service in many cities, we ask the Commission to re-examine its policies concerning radio networks and their impact on localism. We also would like the Commission to analyze the possibility of reserving additional full power non-commercial channels designated for local main studio service only in key markets dominated by studio-waved NCE services.

### **Overall Conclusion on Main Studio Waivers**

*NCE license usage has changed since its inception. The subject of studio waivers warrants further discussion in relationship to localism.* Between 1947 and now NCE usage has changed, but the motivation underlying the granting of main studio waivers has remained static. Even as far back as 1973, the Commission agreed with petitioners that non-commercial licensees no longer provided purely in-school instruction programming, but often competed with the programming of commercial licensees; this became an argument for commercial ascertainment policies being formally adapted to non-

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<sup>47</sup> Grand Rapids, MI, Stockton, CA, (west of) Albuquerque, NM, (south of) Phoenix, AZ, Melbourne, FL, (east and west of) Sacramento, CA, etc

<sup>48</sup> Re NCE filing limits: Educational Media Foundation (“EMF”) is the only party that argued against any method of limiting [NCE] applications” (regarding NCE filing limits, FCC Public Notice *FCC Adopts Limit for NCE FM*... FCC 07-179 (October 10, 2007)); On LPFM: “The speculative benefits of LPFM do not justify imposition of these definite harms.” “there is no guarantee that LPFM stations... will better serve the public interest than [translators]” *Comment to FCC* August 22, 2005 Re: MM Docket No. 99-25

commercial stations<sup>49</sup>. Ascertainment addressed the evolving state of NCE studio-waived stations past purely educational goals, acknowledging the local public service responsibilities of NCE licensees. In the rescinding of community ascertainment requirements in 1981, re-examination of main studio waiver in relation to the local public service of non-commercial stations never took place.

In 1981, the Commission did acknowledge that NCE licenses were being used increasingly for the booming, well-funded public radio network: “The growth of public radio has been described as being remarkable...”<sup>50</sup>. Within the past couple decades NCE licenses have been increasingly used for entertainment and cultural uses, in addition to the dissemination of ideological beliefs. NCE licensees often compete programming-wise with commercial stations, and additionally for new channels with other non-commercial broadcasters. Today NCE licensees utilize local management agreements (LMA’s), which distance themselves from the original intent of the FCC license, with professionally trained staffs from commercial media backgrounds. This total change in NCE use—programming, competition, license-holder type, and funding—begs for a reassessment of the local public service obligations of main studio-waived licensee.

The Commission never anticipated that the centralized operation of NCE networks would reduce diversity of programming and crush localism in many communities, but that is what has happened. In some communities, such as in our examples of Bakersfield, CA, Redding, CA, and San Angelo, TX, out-of-town broadcasters networks monopolize the

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<sup>49</sup> *Ascertainment of Community Problems by Noncommercial Broadcast Applicants*, 41 FR 12424 (1976)

<sup>50</sup> From *In the Matter of Deregulation of Radio*, Appendix E “The Non-Entertainment Programming Guideline A Brief History of Programming Regulation”, para 102 within 84 FCC 2d 961- (1981)

NCE channels, locking out any future local NCE participation. In some communities you can receive the same NCE program feed on five channels. We realize that media consolidation and unlimited broadcast ownership in commercial media is dangerous because it concentrates profits among a small amount of owners; this is one reason why commercial stations have ownership caps. More importantly, ownership caps are in place to avoid concentration of ideological power over audiences. Some NCE networks now have approached the ownership levels of unchecked power, a disservice to American democracy. Our overall thought is that **we still support main studio waivers**, but we believe the Commission needs to make new rules that adequately address their purpose and implementation in relation to localism.

### III. Localism: Selective Issues of Importance

#### 1. The Public Needs a Definition of “Minimum Local Public Service”

New station staffing, public file, studio location requirements would have minimal impact on overall programming if there is no clear definition of what *local public service* is. Although the FCC says a station must serve the community it is licensed to, there is no clear definition of what that means. In other words, what is the difference in definition between *a station that could serve a specific community* to *a station that could serve a national audience*? For example, a licensee’s main studio is located in Anchorage, AK, and they have studio-waived stations in Phoenix, AZ, Portland, ME, Hilo, HI, Edgewater, FL. Can local issues be addressed simultaneously with one general topic, say, on one public affairs show run in all these communities? If the answer is

“yes”, then localism may not be local-specific, and localism could be nationalism, and the idea of community service could be based upon nothing community-specific. But we realize that there are also endless local-exclusive topics that are specific to only one community (example—a call-in show where the mayor answers callers’ questions concerning a certain city). Many stations lack this type of community-specific programming.

### Local Public Service Analyzed



Figure 6: General and Community-Specific Issues

Above is a diagram of issues important to a community. Circle I represents general/national issues. Circle II represents community issues. The gray area represents general issues, some of which can be considered general community issues. The white area represents exclusive community issues (issues pertinent to one community). The problem with national, regional, and even local radio is that broadcasters tend to cover the “gray zone”. When a group or individual from a local community complains to the FCC that a station is not serving their community, they are usually referring to the “white zone” in Circle II. When the licensee defends itself, it emphasizes that it has fulfilled its

localism service by listing all the topics it has covered from the “middle zone” (part of the “gray zone”, I, and II), also enumerating local or regional topics that it covered by chance in its regional or national coverage. The middle zone refers to topics pertinent to the community of license, thus technically serving the community, but also relevant to the region or nation in general. **If this model is valid, then solely regional or national programming can fulfill localism, and a radio station has no legal obligation to cover any community-specific issues in the “white zone”.** Because broadcasters naturally gravitate to cover issues based upon ratings, licensee ideology, and/or cost, “white zone” topics will always be excluded. Thus, when the FCC grants studio waivers to licensees to cover another community, the larger these networks grow the more general issues they will cover to receive the most audience. Because of this, no individual community can demand to be served. **If the FCC wants to make new rules concerning localism, it has to address how a radio station needs to serve the “white zone” (“local-specific programming”, in the diagram above).**

## **2. Concerns of Broadcasters**

We do sympathize with broadcaster’s concerns when it comes to proposed changes that will not effectively increase localism. Changing rules that require a local studio to be moved within the boundaries of the community of license from the current rules is unnecessary. Current rules stipulate the studio is within any protected contour that covers the community of license, or 25 miles within the reference coordinates of the community. Changing the studio location by mere miles is not going to force a station to increase local coverage, nor will it allow the public to access the station any better. Most likely if

this rule is changed station owners will just change their communities of license to comply.

We agree with broadcasters that new automation technology has allowed stations to run smoothly without an operator on duty. Having someone present at a station 24 hours a day will achieve no added benefit. However, we do agree that local emergencies do require human intervention. We also agree that the current main studio rule for commercial broadcasters is also adequate to deal with local presence. No added localism in programming or community access will be achieved by moving a station headquarter a short amount of miles into a community of license. If anything, requiring stations to move short distances within their protected contours to comply with new regulations will only stoke filings to change community of license in order to comply.

### **3. Comments on Commercial Radio**

We concur with commercial broadcasters on the notion that broadcasting has changed in the last few decades. Competition from the Internet and mp3 players has the possibility of providing alternatives for news and entertainment. However, we do not entirely know the impact of these developments. Commercial radio has poorly responded to internet-age competition and has not increased quality of content; playlists have continued to tighten, and DJ-less formats such as “Jack-FM” have proliferated. Obtaining radio airplay for most artists has gotten so difficult that presently there are Grammy-nominated artists such as *Goldfrapp*, *Justice*, *Lily Allen*, and *LCD Soundsystem* —all associated with major labels in some fashion—that are not played on commercial radio. The artist *Feist*,



up for four Grammy nominations, had to obtain coverage in a television commercial before being granted any minimal airplay at all. Her album ranked #20 in comprehensive year-end Billboard Top Digital Albums yet didn't even place in on the radar for any of *Radio and Records* 2007 year-end airplay charts. It's worse for independent artists attempting to obtain airplay. In 2004 the indie artist *Bright Eyes* held both the #1 and #2 positions on the Billboard Hot 100 Singles chart, which had only been achieved once before in 1997 by *Puff Daddy*. However, the artist, on independent label *Saddle Creek*, wasn't even played on commercial pop music stations. A few alternative stations eventually picked up a single and played them for a very short duration.

Even when the public amazingly finds a way to favor artists in mass outside the strict playlist constraints of commercial radio, radio programmers refuse to veer from music promoters' grip on stations. Radio playlists are also devoid of any local artists. In fact, American indie artists are more likely to get airplay on European radio stations than American commercial radio. Ironically, US artists, such as *The Strokes*, *Interpol*, and *Yeah Yeah Yeahs*, needed to obtain buzz in the UK before accessing American radio; we can always thank BBC radio. When commercial broadcasters respond to decreased listenership, they often cite internet competition, not their decreased content, thus rallying for consolidation. They don't cite NPR, where listenership has actually increased by maintaining quality content<sup>51</sup>. They cite that new regulation would regulate them "back to the 60's". We agree; radio quality in the 1960's was *incredibly better* than it is now.

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<sup>51</sup> Arbitron report, "Public Radio Today: how America Listens to Public Radio"

## IV. Overall Conclusions and Recommendations

The Commission has asked for comment regarding new regulation that could improve broadcast localism. We delve into topics of interest below, weighing the concerns of the public and broadcasters to develop a prescribed solution for each broadcast ailment.

### Reassessment of Main Studio Waivers

We believe main studio waivers are still very relevant, but need to be better regulated:

A. Base the granting of main studio waivers contingent upon relatively low population in a service area: In the past, the Commission has accepted evidence that the population of the studio-waived community is too small in order to justify that it is unfeasible to locate a studio within the community<sup>52</sup>; we agree. If a small population exists in the area, it may not be able to support the cost of an additional main studio. There should be a minimum broadcast population cutoff defined, meaning any population under a certain prescribed level may be considered too small to support staffing a studio. The applicant should provide evidence, including population broadcast to (by verification of Longley-Rice 60 dBu coverage<sup>53</sup>), and cost speculation of studio and staffing, and speculation of

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<sup>52</sup> Examples include *Living Faith Ministries, Inc.*, 21 FCC Rcd 5046 (2006), *Letter to Russell C. Powell Re: Sound of Life May 20, 1996*

<sup>53</sup> In some cases, FCC 60 dBu diverges from actual received. In the case of mountainous terrain, the actual signal can be cut short and serve a smaller area. In case of line-of-sight transmitter locations on mountains overlooking valleys, FCC 60 dBu exceedingly underestimates coverage. We recommend Longley-Rice plotting be used as to accurately show true coverage.

local fundraising based upon similar markets, and justification relating to their current operating budget.

B. Community Advisory Board: All studio-waived facilities should have some degree of local advisory board to assess if the licensee is serving the needs of the community. The station should address community concerns within its programming.

C. Waiver Limits: All licensees should be given a ten station studio-waived limit, meaning only ten waivers per applicant. Reason for this is that only a finite amount of communities can be addresses at the same time with one centralized studio. Additionally, large networks squelch the availability of channels for local entrants.

D. Programming: All licensees should devote a minimum number of hours to what is referred to in the above as “white zone” topics (topics exclusive to the community of coverage of the studio-waived station). All programming serving these topics should be recorded in the station’s public file.

E. Regional Mission: There should be a regional scope to any licensee’s domain. National networks should be relegated to the medium in which they are the most appropriately scaled for: satellite and internet radio. National networks should be able to redeem their terrestrial FM licenses for one “NCE sky license”. In the inevitable Sirius/XM merger, NCE sky license channels should be reserved for educational use, with reception without subscription service. The FCC should make NCE “sky band” adapters for FM radios available free of charge.

G. “Good cause”: Good cause arguments, or exceptions to the rule, should be accepted, although carefully scrutinized. In cases in which there are exceptions to the rule granted, a one-year trial waiver should be granted, and local public service evidence should be judged at the end of the term.

H. Public service viewed at license renewal: Local public service evidence should be forwarded to the Commission during license renewal. Each licensee should subscribe to the local newspaper available in the studio-waved community of license. Each licensee should record the major issues applicable to the station license’s coverage area on a quarterly basis. The licensee should state which issues were addressed in the station’s programming.

I. Integrate NCE “satellite station service” into FCC regulations: End “main studio waivers” and rename the service “satellite station service”. End the ambiguous waiver for studios, which is no longer the “exception to the rule” but has become the rule.

J. Redundant frequency ownership: If a licensee owns multiple frequencies in a *satellite community*, broadcasting redundant programming on each channel, the public should be able to demand better use for the channels.

### **Localism concerning LPFM and Translators**

LPFM is an important service in aiding localism. The FCC currently allows placement of LPFM stations solely based upon a non-technical physical spacing requirement. This means, the Commission originally wanted to simplify the method of placing new LPFMs

by basing it upon transmitter spacing, regardless of antenna pattern or signal strength. The problem with this licensing scheme is that it doesn't use the FM band efficiently<sup>54</sup>.

A. LPFM should be switched to “translator rule” placement: Translators use a contour/signal strength-based methodology<sup>55</sup>, which more precisely uses real-world engineering models for placement. The discontinuity between the *distance* and *contour* methodologies prevents LPFM and translator services from being technically compared to each other, allowing a “fog” for NAB to use to argue against LPFM—yet be pro-translator. If interference concerns were really an issue, all NAB would have to say is “LPFM should use translator licensing requirements” and be done with it. But it appears that NAB dislikes LPFM because it is, in fact, *competition*. But if LPFM placement is switched to translator methodology, all the interference complaints from the naysayer automatically evaporate, and we can avoid all the costly time in court.

B. LPFM service should be given higher service status compared to translators in the top 300 markets. However, the Commission should impose a ten-translator “repetition” protection limit for translator service within the top 300 markets<sup>56</sup>. In other words, each individual licensee can only have ten translators carrying their programming with protection from “LPFM superseding” in these markets, regardless of who owns the translator. A simple “translator ownership protection

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<sup>54</sup> FM distance spacing rules work well with full power stations (10,000's of watts), but poorly extrapolates to low-wattage stations.

<sup>55</sup> Translators must be more carefully placed to avoid interference near the transmitter site, but this is doable by hiring an engineer to pick the right transmitter site and wattage

<sup>56</sup> The Commission has already suggested a retroactive ten translator processing limit in the “Report”.

cap” among licensees would not work because licensees could collude with third parties to circumvent this rule. Simply put, there’s no room for LPFM in the largest markets even if they can utilize translator placement methodology<sup>57</sup>.

### **Localism in Community Service (All Stations)**

Standards need to be prescribed as guidelines for what is considered “adequate local public service”:

- A. Minimum time investment for community topics: All stations should be accountable for a certain number of hours a week devoted to licensee-originated “local topics of community interest”. A percentage of these topics should be “white zone” topics (see page 45). Say, if 30 minutes a week is required for “white zone” topics, a station could devote time to playing local artists, having a daily community-specific entertainment/concert calendar, interviewing local community members (or pillars of the community), addressing local topics, having a call-in show about a local topics, etc.
- B. Minimum time investment waiver: Student/community/LPFM radio stations operated primarily by faculty, students, and volunteers that have tiny budgets or no professional staff to devote to originating community affairs programming should be able to apply for a waiver to the above (described in “A”). Student and community radio often fulfills “community programming” by actually allowing non-paid local students or community members to have direct access to on-air time. This in itself should be able to be counted as

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<sup>57</sup> In a comment by Prometheus and Common Frequency (Re MM Docket No. 99-25, April 2008) we showed limited translator frequencies open in major markets.

“student community” or “community” service through its indirect service to community members. The waiver should be based upon 1) *diverse* student access (multiple schools in a district, or a junior college with broadcast class open to community members), student plus community access, or community access, 2) minimum station budgets (example, total station budget less than \$150,000/year), and 3) a minimum number of community topics covered per quarter on the station.

- C. Advisory Boards: All stations should have some type of community advisory board. The advisory board should be vetted by the FCC via a selection of local volunteer applicants filling out an online diversity questionnaire at the FCC website. **Stations listed in “B” above, or non-studio-waived stations that originate a minimum prescribed number hours a week of local-originated public affairs programming, should be able to choose between an advisory board, or “issues of importance” file.** An “issues of importance” record would demonstrate: 1) chief topics of community interest on a quarterly basis, according to the local newspaper, alternative daily, or self-reported, 2) a station involvement report (number of students, community members, and volunteers, cultural & age makeup of staff and volunteers, and access of station staff and volunteers to airtime), and 3) the programs that were run on-air that dealt with topics of community interest.
- D. Studio Presence: We do not agree that 24 hour staffing should be required. Instead, all stations should designate local on-call “sentinel” positions when studio staffing is not present. The sentinel shall be required to track all local

and national news, advisory, and warning bureaus. The sentinel should be linked to intercept EAS and station voicemail, and be able to override automation programming for self-produced announcements.

### **Continual Evolution, Oversight, and Education**

We believe local public service cannot be dealt with by one-time rulemakings. First, we consistently hear that the public disapproves of broadcasters, and that broadcasters defend their dedication toward serving the public interest, but we have don't have comprehensive data on-hand to broadly determine what kinds of policies to implement and enforce to find solutions. Second, there is no clear way for the public to interact with the Commission concerning broadcaster responsibilities.

We submit by example a system that may aid in the issue of communication between the public, broadcasters, and the FCC: Within the last decade, the Los Angeles County was facing a public health meltdown over restaurants not being up to health code, the County not being able to maintain quality inspections, and the public clueless to the food preparation conditions in each restaurant. Poor food mishandling and sanitation became so epidemic that a local television news report performed their own restaurant investigations that in total decimated the credibility and effectiveness of the LAC Department of Health. To combat the problem, the Department of Public Health had to revamp the entire system, adding the tool of *transparency* into a public education campaign. Each restaurant in LA County is now required to post a letter grade by their front door that translates to the condition of their health inspection.



Along with new regulation, technology can aid *transparency* for producing tools that the Commission can utilize as a barometer for measuring a broadcaster's public service level. This system would require almost no additional cost for broadcasters. The system is as follows:

- 1) The FCC could create a *Broadcast Public Service Info Center* portal on its website as an educational tool to bring together broadcasters, radio listeners, television viewers, the music community, the Commission itself, and the public: say, "www.fcc.gov/infocenter", for example. Purpose of *Info Center* is educational in nature, but also as a tool to survey public service and localism. The Commission already participates in effective public educational outreach on the web with *Kids Zone*, *DTV Transition*, *Tribal Page*, etc; this would not be a new concept.
- 2) Each station would have a page on Info Center displayable under *market ranking*, *city*, *state*, or *ownership name*. The information on that page would be dependent upon type of station they are (television, commercial radio, NCE radio, LPFM, translator). Licensees interact with Info Center by a CDBS-like interface. All stations could participate in Info Center, except non-commercial stations with two or less full time employees, or with an annual operating budget below \$200,000, that have at least ten hours a day (M-F) of live operator-assisted local-originated programming will be partially exempt (or optional) in regards to reporting to it (referred to as "exempt"). This partial exemption is geared towards offering leniency towards student and community volunteer stations that strive to produce

local programming and include participation of community, but are not run as professional outfits that have the personnel to undertake large amounts of data sorting and ascertainment.

- 3) The FCC could develop software for each station to be able install a public file on an online server connected to the Internet. All non-exempt stations are required to post full public files online. All public files addresses must be linked to Info center station pages.
- 4) Info Center Music Survey: In an effort to bring transparency to airplay, commercial stations will be required to post a list of all artists and playcount on a weekly basis. This could be automated by having station playlist or automation software manufacturers upgrade code to dump the play data onto FCC Info Center. Additionally, the station must perform simple rote music ascertainment. This includes:
  - a) Reporting the top 100 best selling artists lists from local record stores in the last month. This step can be omitted if all stores directly report to Info Center in the market.
  - b) Reporting a list of music artists that have played local venues in the last month and whether any received airplay. Local clubs can report to directly to Info Center if they desire.
  - c) Reporting if the station has an entertainment calendar, and which artists and clubs where announced.
  - d) Reporting a list of music requests for each artist and song in the last month. More than two calls per phone number can be disregarded.

- e) Reporting a list of artists played on the air that could be considered “local” (within the radio market).
- f) Reporting all the independent promoters it has talked to and disclosing what artists those promoters have presented the station.

The FCC should additionally post top selling music on a weekly basis according to A) Soundscan, and B) Internet downloads. Also, each radio station music promoter currently servicing stations should report a monthly roster of artists they represent to Info Center. The purpose of the above is to represent the local public’s music buying and local artists concert performing habits in relation to the station’s airplay, and maximum transparency. Most of the above could be automated or semi-automated.

- 5) Public Service Reporting: All reporting in “Localism in Community Service” discussed above flows through Info Center (Advisory board, reporting, waivers, etc).
- 6) Minimum Standards and License Renewals: A system for broadcast standards should follow a rating scheme used to in other industries to alert the public of a broadcaster’s job in running a local station. The grading scheme would be a point system in which the broadcaster fills out an online “Public Service Report” every two years (on even years) claiming points for each activity that the station chooses to partake in. This online reporting system could be web-accessed via CDBS or Info Center, requiring little work from the Commission to implement. Points could be tentatively tallied automatically, although qualitative points may need to be assessed. A report card that makes a rating (A, B, C, D, F) would be

linked to specific criteria. The criteria could include: degree of local election coverage, whether they heeded the advisory board, hours of local programming, amount of public service announcements run, local emergency plan, amber alert plan, playlist disclosure, etc. License renewals should occur once every 2 years (on odd years). If a broadcaster consistently opts to do the below the “minimal”, receiving “D’s” and “F”, the public can contact the FCC to have a local hearing regarding that station’s license. The broadcaster can then opt to listen to the community and be given a chance to serve the public better. If this broadcaster does not maintain at least a minimal “passing” grade following the hearing at its next review, that broadcaster’s license can be challenged under abandonment of localism. At this point, the license could be opened up to proposals from other entities.

### **If Not The Above, Then Something...**

It would be helpful if the Commission could reveal what criteria constitutes a licensee *not serving* a local community.

## Appendix

### Appendix A: Articles on EMF

# Deseret News

## Christian radio firm makes bid on KCPW

By Jasen Lee

Deseret Morning News

Published: Thursday, March 13, 2008 12:04 a.m. MDT

Radio station KCPW has received a purchase offer of \$3.7 million from Christian broadcasting company Educational Media Foundation, based in Rocklin, Calif.

Many supporters are frustrated because they have had little success contacting anyone on the Community Wireless board of directors or station management to discuss a potential deal to purchase the station through a local investor group, she said. The board has also barred station employees from discussing the matter with the public.

"They are not returning calls, and that bothers me a great deal," she said.

Former KCPW general manager Ed Sweeney said his group, Wasatch Public Media, wants to buy the station and has been given until March 15 to come up with a plan that matches the current offer on the table from EMF. He said Wasatch's previous offer of \$2.4 million submitted on March 6 has to be amended sufficiently to keep their hopes of buying the station alive.

"I'm doing my very best to scramble to come up with a plan that would meet the satisfaction of Community Wireless that would match the \$3.7 million," he said. "We have strong grass-roots support."

Sweeney said he has secured most of the funding but is working to locate additional investors to make up the \$1.3 million needed to match EMF.

Steve Denkers, board member of the Stephen G. and Susan E. Denkers Family Foundation, who has donated several hundred thousand dollars to the station over the past several years, said he is also troubled by the most recent developments regarding the sale of the station.

"If they can sell the station to an evangelical group for x-amount of dollars, then that's what they can do," he said. "In a moral sense or in a fair game sense, we who pledged on pledge drives and gave money to building the station deserve a chance to raise the money to buy it."

Denkers said he expected to have at least six months to put together a committee that would work at organizing funding to keep the station locally owned. He said the current March 15 deadline may be too soon for an agreement to be reached in time.

Calls by the Deseret Morning News to KCPW attorney Joe Wrona and Keith Whipple, vice president of communications and marketing for Educational Media Foundation, were not returned Wednesday.

KCPW, founded 14 years ago, has a combined audience of almost 50,000 listeners and an annual budget of almost \$1.4 million dollars, according to financial statements obtained by the Deseret Morning News.

Previously, the Community Wireless board said it preferred to sell the stations to the Sweeney group. But the board also retained the right to entertain offers from other interested nonprofit organizations, giving priority to those that would continue the station's current news and information format.

EMF has dozens of stations nationwide that broadcast Christian-oriented music, though it is not clear if the company would change KCPW's format from the current NPR news and talk programs.

With the weekend deadline looming, Sweeney said he will continue work at finding another investor to try to make up the current \$1.3 million dollar shortfall Wasatch Public Media has.

"I'm doing my best to try to get financial support to back up our offer," he said. "I'm realistic that we have a tough battle ahead of us, and I'm going to do everything in my power to put together the offer in a business-like way."

#### **Reader comments: Christian radio firm makes bid on KCPW**

3 comments | [Read story](#)

**Judy Tukuafu** | 9:45 a.m. March 13, 2008

I have supported KCPW for many, many years including volunteering at pledge drives and giving money. I know there is a huge amount of support for this station and I don't understand how this is happening! I appreciate the efforts of all the people working to keep KCPW the radio station we have loved and supported.

**russ** | 8:44 p.m. March 13, 2008

In my neck of the woods, and in another state, we have found that the so-called Christian stations try to buy in to the dial next to the public stations, and then crank up the energy. There is an incidious war going on between the money of the zealots of the rightwingchristian viewpoint and public radio and tv.

War has been going on for about 5 years now. Under the radar, so to speak. Sorry to hear about Utah's problem

**Secular** | 9:18 p.m. March 14, 2008

As I have watched broadcasting in the Educational FM part of the band, I have noted a trend that some so-called Christian groups appear to have tried to lock down every available channel in every community. The Wasatch Front area already has several 'Christian' radio broadcasters: KUFR, 91.7 FM, Salt Lake City; KANN, 1120 AM, Roy; KEYY, 1450 AM, Provo (heard only in Utah County); KYFO-FM, Ogden, 95.5 FM & 92.7 FM, in addition to several limited power stations that rebroadcast out of state FM stations. The existing "Christian" stations are doing a good job and are serving the Christian community well. I don't think that community is underserved, but if we lose KCPW's news and information format, all of us will be underserved in that area.

\* \* \* \* \*

**The New York Times**

## In Texas, Fighting to Keep Brahms on Air

By DANIEL J. WAKIN

Published: June 26, 2006



KILGORE, Tex., June 24 — In this landscape of oil derricks and Rangerettes — a renowned drill team dressed in smiles and miniskirts — a tiny radio station sends out a lifeline to classical music lovers in East Texas.

It is KTPB, the station of Kilgore College, which educates the children of oil hands and other blue-collar workers. Now the college has decided it can no longer afford to support the station and has announced its sale. The new owner? A Christian-music broadcasting company from California, which will pay the college \$2.46 million over 10 years.

Richard Jenkins, the president of the company, EMF Broadcasting, acknowledges that the sale has some people in the area outraged. "I know there are some unhappy campers out there," he said. "But it always happens with change."

Though classical music may be a minority taste, its adherents here are vocal. Some have formed a group, Save Our Arts Radio. They have advertised in the local newspaper and generated at least 175 letters, many of them sent to the Federal Communications Commission, which must still approve the deal.

"Just because we live out here in the middle of nowhere doesn't mean we have to be a cultural void," said Nancy B. Wrenn, the executive director of the East Texas Symphony Orchestra, based in Tyler, about 30 miles away. She helped form the group. "This radio station has reached people who have no other access to the arts," she said. Meanwhile, three other Christian music stations lie just to the north on the FM dial.

The loss of a classical KTPB would be the latest footstep in the decline of classical music radio in the United States. Doomsayers see the trend as part of a broader diminishing of the art form, although new sources — satellite and digital radio and Internet streaming — are emerging. In 1990, about 50 commercial stations were on the air; the number is closer to 30 now. About two dozen public radio stations have cut back on classical programming to varying degrees in the last decade, said Tom Thomas, co-chief executive of Station Resource Group, an organization of public stations.

Kilgore's favorite son — the famously reclusive pianist Van Cliburn, who spent some of his childhood in the town — has spoken out against the sale. "There is no way to give a monetary evaluation to the world's heritage of great music," he wrote in a letter published in The Tyler Morning Telegraph this month. The trendy music of today is fleeting, he said, "but the permanent, ageless masterpieces are enduring and

forever." Losing the station would be a travesty for the college, wrote Mr. Cliburn, whose name adorns a college auditorium.

The school's trustees voted unanimously on April 20 to approve the deal. The F.C.C.'s period for public comment ended Saturday; the commission must now issue a ruling, but it has not set a deadline.

The school, a junior college in this town of 11,000, has been increasingly strapped financially, and the money it was using to subsidize the station — about \$125,000 a year — was better put toward educating students, officials said. The Corporation for Public Broadcasting provides about \$85,000 a year, and donations amount to \$80,000.

KTPB, the only classical music station between Dallas and Shreveport, La., a distance of 190 miles, has about 15,000 listeners and reaches a population of 300,000 to 400,000. Classical music plays from 6 a.m. to 4:30 p.m. during the week; then an hour of talk and "The World" from Public Radio International; then more music or syndicated concert programs; then music all night. It also plays jazz, blues and swing.

In an interview, William M. Holda, Kilgore's president, said the public share of financing for the college had declined from 87 percent of the budget to 35 percent in the last 30 years, partly because of the drop in value of the oil fields and the associated dip in tax revenues. He has had to cut the work force and also trim courses, in areas like forensics, fashion merchandising and watch repair. Meanwhile, tuition and fees are on the rise. The college has 5,000 students, most of whom commute.

He said the college did not actively seek a buyer but was approached by a radio station broker.

Mr. Holda also pointed out that the station has a meager 650 members. "People want things, but they don't want to pay for them," he said. "It's not unique to the arts."

Supporters of the station see it differently. "It's a public trust," said Otis Carroll, a prominent Tyler lawyer and a leader of the group trying to save the station. He and others say the college kept the negotiations quiet until it was too late and made no attempt to ask for outside financing.

KTPB in Kilgore, Tex., is the only classical radio station between Dallas and Shreveport, La.

Mr. Holda pointed out that the board meeting had been advertised in the local papers several weeks in advance.

EMF Broadcasting, which is based in Rocklin, Calif., plans to eliminate local programming and said it would beam in a feed of its K-LOVE or AIR-1 networks, or possibly a new format. EMF began providing programming for one affiliate in 1988, and it now owns and operates 192 stations, delivering programming to a half-dozen more.

"The mission of the organization is to promote Judeo-Christian values and bring people to some kind of spirituality, a closer walk toward God," Mr. Jenkins said. He added that Texas was fertile ground for EMF. "It's just a great, great area," he said. "People respond to our programming very, very well."

The story of KTPB is not just Bible versus Beethoven. It has surprising nuances. Mr. Holda of Kilgore College is a former music professor who trained as a singer. "It's a bittersweet deal," he said, adding, "My whole original life was in music."

The sale also means a much smaller audience for the college's sporting events and an end to broadcasts of music from local churches. Nor are the station's staff members a godless bunch; most say they are churchgoers.



KTPB's programming is substantial, in contrast to the easy-listening style of many classical stations. On Friday, for example, there was the entire Brahms "German Requiem," a Beethoven string quartet, lesser-known Liszt piano works, music of George Butterworth and Mozart, Arthur Sullivan's Cello Concerto, Morton Gould's "Santa Fe Saga" and Bartok's second piano sonata.

A hint of class friction also tinges the affair. Most of KTPB's listeners and vocal supporters live in Tyler, a well-heeled city of about 90,000 that has traditionally housed executives. Look for country clubs, not derricks.

On the other hand, the trustees who voted to sell the station live in Kilgore College's tax district. They include a broker, a banker, a lumberyard owner, a former Kilgore College football coach, a pharmacist and an auto mechanic.

If the station goes, "it makes us a small town," said Cris Selman, a 90-year-old woman who is a pillar of Tyler's cultural scene.

Kilgore, where oil was struck in 1930, is at the center of the East Texas oil patch. Working wells are common in the area, but most of the big derricks in town are ornamental, monuments to one of the world's biggest oil bounties. Its other famous (and energy-producing) export are the college's Rangerettes, who started performing in 1940. Attired in white Western hats and boots, blue skirts and red tops, they have appeared at bowl games and presidential inauguration festivities.

Kilgore College was founded in 1935 to give the newly booming town some gravitas. It has strong vocational programs, and is also the home of the respected Texas Shakespeare Festival. Nearby Longview has an orchestra of its own, a small opera company and an art museum.

The loss of KTPB would leave the Tyler folks the most bereft (to the east, some receive Shreveport's public radio station). No more Metropolitan Opera broadcasts. No more New York Philharmonic.

Moreover, KTPB is a cultural glue, sponsoring events for children and broadcasting some 50 local concerts a year, including those of the Longview and East Texas orchestras and their guest soloists.

KTPB has five full-time employees, and they have struggled to remain neutral. "It really is like a grieving process," said Kathy A. Housby, the general manager and afternoon on-air host, who has been at the station for all of its 15 years.

Just a year ago, the station moved into a one-story renovated yellow brick building opposite the First Presbyterian Church. Its old site was used for a \$5-million new residence for the Rangerettes, who have their own museum on campus, and a motto: "Beauty knows no pain."

\* \* \* \* \*

## ***Inside Indian Business 2/14/2008***

### **Non-Profit Broadcaster Buys Lafayette Radio Station**

The only locally-owned commercial radio station in the Lafayette-West Lafayette market has been sold to a California-based non profit. WGLM owner Kelly Busch has announced the operation has been purchased by the Educational Media Foundation. The group owns more than 320 radio stations in the U.S. EMF's website shows it already owns four stations in Indiana.

\* \* \* \* \*

## Price revealed in KC

Educational Media Foundation's acquisition of KCXM-FM Lee's Summit MO, part of the Kansas City market, is priced at 16M, according to documents filed with the FCC. The filing also reveals that the call letters have been changed to KLRX, and that EMF has been running its K-LOVE format on the station since the beginning of the month. The seller is Union First Broadcasting.

\* \* \* \* \*

Monday, January 28, 2008

Salem selling radio station 'The Fish'

**The Business Journal of Milwaukee - by RICH KIRCHEN**

Milwaukee contemporary Christian music station WFZH-FM (105.3), known as "The Fish," is being sold by Salem Communications Corp. to a nonprofit foundation that plans to carry "Christian-based family-oriented programming."

The Educational Media Foundation of Rocklin, Calif., will pay \$8 million to buy the station from Camarillo, Calif.-based Salem (NASDAQ: SALM), according to a filing Monday with the Federal Communications Commission.

The sale of WFZH would complete Salem's exit from the Milwaukee market. The company is selling its Milwaukee AM station, WRRD-AM (540) to Craig Karmazin's Good Karma Broadcasting for \$3.8 million, it was announced last week. Salem has been running religious and conservative talk programming on WRRD.

The divestitures of the Milwaukee stations fit Salem's stated strategy in recent years of "selectively divesting certain non-strategic or under-performing radio station assets."

The Educational Media Foundation plans to launch its "K-Love" programming on 105.3 starting Feb. 15, according to the FCC filing. The foundation's Web site says it plays artists like Third Day, Mercy Me & Michael W. Smith. The foundation already has a station in Fond du Lac at 91.7 FM, the only outlet listed for Wisconsin.

Salem invested \$7 million to start WFZH in 2001, paying \$3.1 million for a construction permit from Outlook Communications Inc., Tucson, Ariz.; \$421,000 to the FCC and \$2.8 million to a Michigan broadcaster to downgrade its station's signal to reduce interference with the 105.3 frequency in Milwaukee.

WFZH was a new station in November 2001 when it debuted as "The Fish" in Milwaukee. The 6,000-watt station is actually licensed to Mukwonago, but the station's offices and studios are on Milwaukee's west side.

WFZH attracted a niche audience in Milwaukee, ranking 15th among listeners in the 25-to-54 audience in recent Arbitron ratings.

\* \* \* \* \*

John Pierce and Company, Press Release

Maranatha Broadcasting has closed on the assets of WMEJ-FM in Huntington, WV and WZWA-FM in Clarksburg, WV. The new owner is Educational Media Foundation. This purchase now gives EMF extensive coverage over West Virginia and Southeastern Ohio. The closing price was \$900K. Exclusive broker is John Pierce of John Pierce & Company, LLC

\* \* \* \* \*

Galaxy to buy nine Clear Channel stations

**CNY Business Journal (1996+), Jul 20, 2007 by Tampone, Kevin**

“Utica-based Roser Communications Network will purchase current Clear Channel stations WSKS-FM and WSKU-FM from Galaxy once the deal goes through. Educational Media Foundation, a major national religious broadcaster, will buy current Clear Channel station WOKR-FM and WRCK-FM, a classic-rock station now owned by Galaxy.”

\* \* \* \* \*

R&R March 3, 2007

Washington

KQBE-FM/Ellensburg (Wenatchee)

PRICE: \$825,000

TERMS: Asset sale for cash & note

BUYER: Educational Media Foundation, headed by president Mike Novak. Phone: 916-251-1600. It owns 210 other stations, including KLUW-FM/Wenatchee.

SELLER: Peak Communications Inc. (WA), headed by president John Kelleher.

Phone:

FREQUENCY: 103.1 MHz

POWER: 2kw at 1,289 feet

FORMAT: Adult CHR

BROKER: The Exline Co.

COMMENT: Peak Communications' KQBE-FM/Ellensburg, WA to Educational Media Foundation for \$825,000. \$450,000 cash at closing, including \$41,250 escrow deposit, plus \$375,000 promissory note.

\* \* \* \* \*

R&R:

Washington

KTSL-FM/Medical Lake (Spokane)

PRICE: \$2.15 million

TERMS: Asset sale for cash

BUYER: Educational Media Foundation, headed by president Mike Novak. Phone: 916-251-1600. It owns 207 other stations. This represents its entry into this market.  
SELLER: Pamplin Communications Corp., headed by president/CEO Andrea Marek.  
Phone: 503-553-0380  
FREQUENCY: 101.9 MHz  
POWER: 29kw at 650 feet  
FORMAT: Christian contemporary  
BROKER: Tom McKinley  
COMMENT: Pamplin Broadcasting-Washington's KTSL-FM/Medical Lake, Wash., to Educational Media Foundation for \$2.15 million, payable in cash at closing. \$107,500 escrow deposit.

\* \* \* \* \*

Christian group buys WJKL radio.(News)

**Daily Herald (Arlington Heights, IL), January, 2007 by Phillips, Rob**

Byline: Rob Phillips Daily Herald Staff Writer Rick Jakle said that although he's selling his Elgin-based WJKL 94.3-FM radio station to the Sacramento-based foundation that has operated it since 2001, listeners shouldn't notice a difference. Jakle confirmed Tuesday that he plans to sell his namesake station for \$17 million to the Educational Media Foundation.

## Appendix B

Five FM channels in southern Nevada are delivering programming from AIR-1/KLOVE via EMF and partner “Southern Nevada Educational Broadcasters” (“SNEB”).

### K207DU, EMF

AIR-1 was first delivered on K207DU via satellite in the early 2000’s

**Verdict: Delivers non-local AIR-1 to Las Vegas**

### KVKL, SNEB

08/2005 – Granted 1.6 kW 216 to cover Las Vegas with a waiver, although located about 40 miles from Vegas.

07/2007 – Concurrently filed applications with KAIZ (EMF) to raise power to 44.8 kW, while KVKL reduces power

**Verdict: Delivers non-local KLOVE to Las Vegas**

### KAIZ, EMF

07/2002 – Granted 0.4 kW 216 to serve Mesquite, NV (town 80 miles from Las Vegas)

04/2006 – KAIZ goes to 215 and 25 kW

07/2007 – KAIZ concurrently files with KVKL, to reduce power down to 400 watts, abandoning coverage area.

10/2007 – Files to abandon Nevada completely, changing channels and asking to leave the small town of Mesquite, NV as move to Fowler, Indiana (Lafayette, IN) to cover over 200,000 people.

**Verdict: Decides KVKL can cover Las Vegas with the adjacent channel; covering a small community of Mesquite is useless, so moving across country to Fowler, IN will serve many more people.**

### KEKL, SNEB

08/2002 Granted for Mesquite, NV 100 kW channel 203

03/2005 Downgrades to 20.5 kW

11/2005 Asks to upgrade, covering Las Vegas

**Verdict: Delivers non-local KLOVE to Las Vegas**

### KAER, EMF

Early 2000’s KAER goes on in small community of St. George, UT, 207 0.9 kW

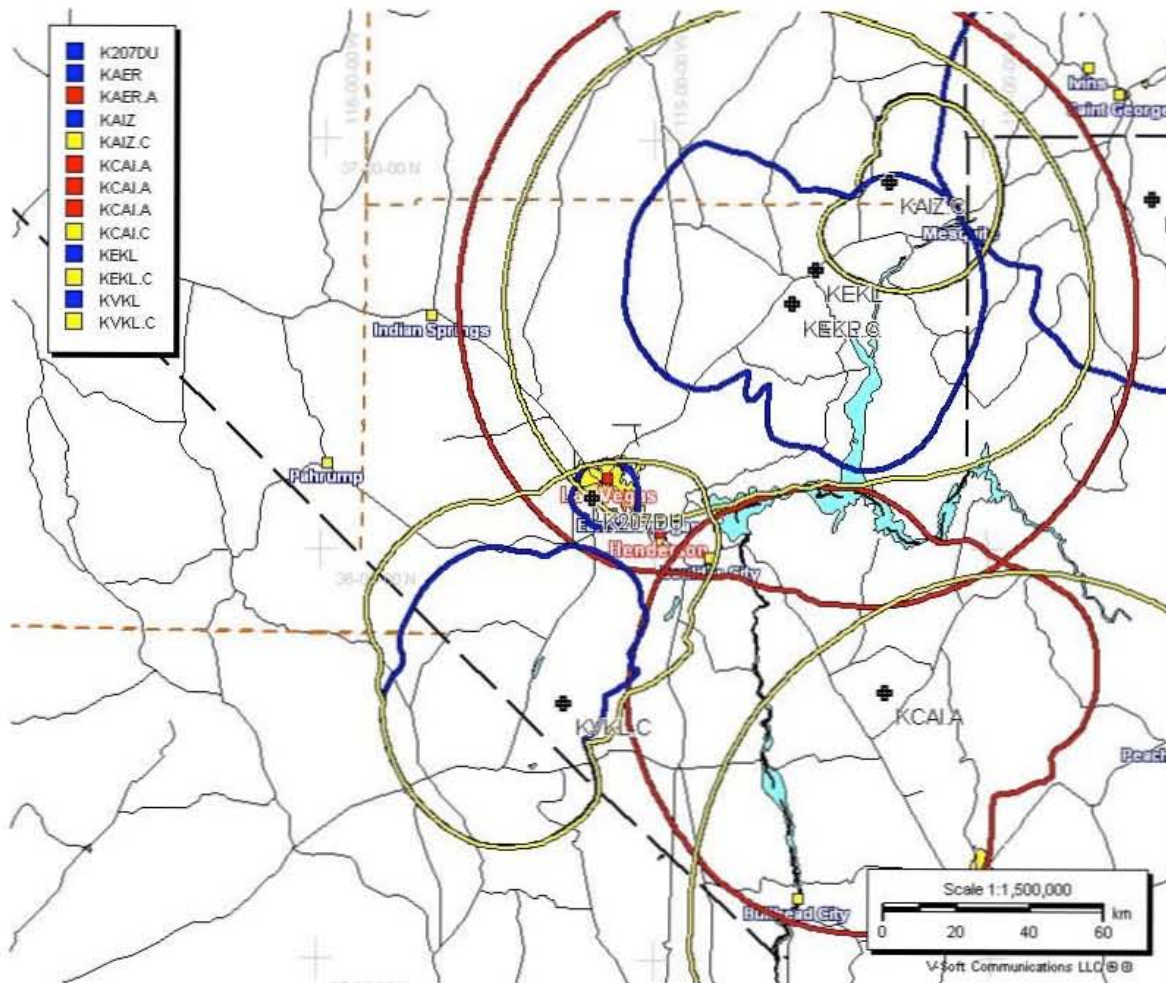
08/2004 – Upgrades to 7 kW, 208

09/2007 – Right before NCE filing window, EMF asks FCC to change community of license from St George, UT, a community of 9289, to Mesquite, NV, covering 1,361,096 (aka Las Vegas metro). This is ironic since EMF *already has a station licensed to Mesquite, NV that they are trying to move to Indiana.*

**Verdict: Moving out of a small community of St George, UT to Las Vegas metro increases the net worth of the frequency several-fold with the single application. Additionally filing it as a minor modification preempts any local group from applying for it in a filing window.**

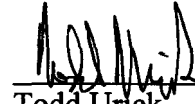
KCIA, EMF

EMF has a pending application that would project signal from the south up towards the Boulder City/Henderson area.



Submitted by,

COMMON FREQUENCY

A handwritten signature in black ink, appearing to read "Todd Urick", is written over a horizontal line.

Todd Urick

Technical Director, Common Frequency

for the Board of Common Frequency, Inc.

Jeff Shaw

Rich Luscher

Kristin Koster PhD

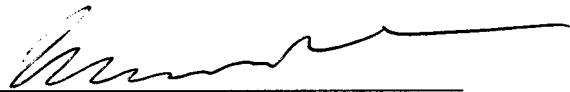
Paul Schramski

Jason Mata

Certificate of Service

I, Darrick Servis, representative of Common Frequency, hereby certify that one original and nine copies of the foregoing "Comments of Common Frequency, Concerning MB Docket No 04-233" were served via first-class USPS on May 3, 2008 to:

Marlene H Dortch, Secretary  
Federal Communication Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

  
\_\_\_\_\_  
Darrick Servis